

1970

c 91 Corporations Tax Act

Ontario

© Queen's Printer for Ontario, 1970

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

Bibliographic Citation

Corporations Tax Act, RSO 1970, c 91

Repository Citation

Ontario (1970) "c 91 Corporations Tax Act," *Ontario: Revised Statutes*: Vol. 1970: Iss. 1, Article 94.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1970/iss1/94>

This Statutes is brought to you for free and open access by the Statutes at Osgoode Digital Commons. It has been accepted for inclusion in Ontario: Revised Statutes by an authorized administrator of Osgoode Digital Commons.

CHAPTER 91

The Corporations Tax Act

PART I

INTERPRETATION

1.—(1) In this Act,Interpre-
tation

1. “amount” means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing;
2. “annuity payment” includes an amount payable on a periodic basis whether payable at intervals longer or shorter than a year and whether payable under a contract, will or trust or otherwise;
3. “assessment” includes a reassessment;
4. “bank” means a corporation or joint stock company wherever incorporated for the purpose of doing a banking business or the business of a savings bank that transacts such business in Ontario, whether the head office is situate in Ontario or elsewhere;
5. “business” includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and includes an adventure or concern in the nature of trade but does not include office or employment;
6. “common share” is a share the holder of which is not precluded upon the reduction or redemption of the capital stock from participating in the assets of the corporation beyond the amount paid up thereon plus a fixed premium and a defined rate of dividend;
7. “Comptroller” means the Comptroller of Revenue;
8. “corporation” means a corporation however or wherever incorporated and, where a corporation or the whole or any part of the property thereof is placed in the hands or under the control of an agent, assignee, trustee, liquidator, receiver or other official, includes such agent, assignee, trustee, liquidator, receiver or other official, but does not include a corporation incorporated without share capital;
9. “dividend” does not include a stock dividend;

10. "employed" means performing the duties of an office or employment;
11. "employee" includes officer;
12. "employer", in relation to an officer, means the person from whom the officer receives his remuneration;
13. "employment" means the position of an individual in the service of some other person, including Her Majesty or a foreign state or sovereign, and "servant" or "employee" means a person holding such a position; R.S.O. 1960, c. 73, s. 1 (1), pars. 1-13.
14. "exempt income" means property received or acquired by a corporation in such circumstances that it is, by reason of any provision in Part III, not included in computing its income and includes amounts that are deductible under subsection 1 of section 38; 1961-62, c. 23, s. 1 (1).
15. "farming" includes tillage of the soil, live stock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming; R.S.O. 1960, c. 73, s. 1 (1), par. 15.
16. "fiscal year" means the period for which the accounts of the business of a corporation are ordinarily made up and accepted for purposes of assessment under this Act, and, in the absence of an established practice, the fiscal year is that adopted by a corporation, but no fiscal year may exceed fifty-three weeks and any change in a usual and accepted fiscal year shall be made for the purposes of this Act only with the concurrence of or in accordance with the direction of the Minister; R.S.O. 1960, c. 73, s. 1 (1), par. 16; 1968, c. 20, s. 1 (1).
17. "fishing" includes fishing for or catching shell fish, crustaceans and marine animals, but does not include an office or employment under a person engaged in the business of fishing;
18. "foreign business corporation" means a corporation defined by section 44 to be a foreign business corporation;
19. "gross revenue" means the aggregate of all amounts received or, depending upon the method regularly followed by the corporation in computing its profit, receivable in the fiscal year otherwise than as or on account of capital;

20. "income bond" or "income debenture" means respectively a bond or debenture in respect of which interest or dividends are payable only when the debtor corporation has made a profit before taking into account the interest or dividend obligation on such bond or debenture; R.S.O. 1960, c. 73, s. 1 (1), pars. 17-20.
21. "insurance corporation" or "insurer" means a corporation, with or without share capital, that carries on an insurance business; 1968-69, c. 19, s. 1; 1970, c. 69, s. 1 (1).
22. "inventory" means a description of property the cost or value of which is relevant in computing the income of a corporation from a business for a fiscal year;
23. "jurisdiction" means a province or territory of Canada or a state outside of Canada having sovereign power;
24. "loss" means a loss computed by applying the provisions of this Act respecting the computation of income from a business *mutatis mutandis*, but not including in the computation a dividend or part of a dividend the amount of which would be deductible under subsection 1 of section 38 in computing taxable income, minus any amount by which a loss operated to reduce the income of a corporation from other sources for purposes of tax on income for the fiscal year in which it was sustained; R.S.O. 1960, c. 73, s. 1 (1), pars. 22-24.
25. "Minister" means the Minister of Revenue; 1968, c. 20, s. 1 (5).
26. "non-resident" means not resident in Canada;
27. "non-resident owned investment corporation" means a corporation defined by section 43 to be a non-resident owned investment corporation;
28. "permanent establishment" has the meaning given to that expression by section 3;
29. "personal corporation" means a corporation defined by section 39 to be a personal corporation; R.S.O. 1960, c. 73, s. 1 (1), pars. 25-28.
30. "prescribed", in the case of a form or the information to be given on a form, means prescribed by order of the Minister and, in any other case, means prescribed by the regulations; R.S.O. 1960, c. 73, s. 1 (1), par. 29; 1968, c. 20, s. 1 (2).
31. "property" means property of any kind whatsoever whether real or personal or corporeal or incorporeal, and

includes every interest or profit, legal or equitable, present or future, vested or contingent in, arising out of or incident to property;

32. "railway" includes a railway and part of a railway operated in whole or in part by steam, electricity or other motive power, constructed and operated on highways or on land owned by the corporation that owns or operates it, or partly on highways and partly on such land, but does not include a street railway constructed or operated in whole or in part upon or along a highway under or by virtue of an agreement with or a by-law of a city or town; R.S.O. 1960, c. 73, s. 1 (1), pars. 30, 31.
33. "registered pension fund or plan" means an employees' superannuation or pension fund or plan accepted for registration by the Minister of National Revenue for purposes of the *Income Tax Act* (Canada) in respect of its constitution and operations for the fiscal year under consideration; 1970, c. 69, s. 1 (2).
34. "regulations" means the regulations made under this Act;
35. "share" means a share of capital stock of a corporation;
36. "shareholder" includes a member or other person entitled to receive payment of a dividend;
37. "a shareholder's portion of undistributed income of a corporation" has the meaning given to that expression by subsection 2 of section 56;
38. "subsidiary controlled corporation" means a corporation more than 50 per cent of the issued share capital of which, having full voting rights under all circumstances, belongs to the corporation to which it is subsidiary;
39. "subsidiary wholly-owned corporation" means a corporation all the issued share capital of which, except directors' qualifying shares, belong to the corporation to which it is subsidiary; R.S.O. 1960, c. 73, s. 1 (1), pars. 33-38.
40. "superannuation or pension benefit" includes any amount received out of or under a superannuation or pension fund or plan, and, without restricting the generality of the foregoing, includes any payment made to a beneficiary under the fund or plan or to an employer or former employer of the beneficiary thereunder,
 - i. in accordance with the terms of the fund or plan,
 - ii. resulting from an amendment to or modification of the fund or plan, or

iii. resulting from the termination of the fund or plan; 1965, c. 22, s. 1.

41. "tax payable" by a corporation under sections 4 to 13 means the tax payable by the corporation as fixed by assessment or reassessment subject to variation on objection or appeal, if any, in accordance with sections 81 to 87, as the case may be;
42. "taxable income" has the meaning given to that expression by section 14;
43. "taxation year" means that fiscal year in relation to which the amount of a tax under this Act is being calculated when the expression is used to distinguish it from another fiscal year; R.S.O. 1960, c. 73, s. 1 (1), pars. 39-41.
44. "undistributed income on hand" has the meaning given to that expression by section 56. R.S.O. 1960, c. 73, s. 1 (1), par. 43.

(2) For the purposes of this Act,

Arm's length

- (a) related persons shall be deemed not to deal with each other at arm's length; and
- (b) it is a question of fact whether persons not related to each other were at a particular time dealing with each other at arm's length.

(3) For the purposes of subsections 2 and 5 and this subsection, "related persons", or persons related to each other, are, Related persons

- (a) individuals connected by blood relationship, marriage or adoption;
- (b) a corporation, and,
 - (i) a person who controls the corporation, if it is controlled by one person,
 - (ii) a person who is a member of a related group that controls the corporation, or
 - (iii) any person related to a person described by sub-clause i or ii;
- (c) any two corporations,
 - (i) if they are controlled by the same person or group of persons,
 - (ii) if each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation,
 - (iii) if one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation,

- (iv) if one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation,
- (v) if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or
- (vi) if each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation.

Corporations
related to
each other

(4) Where two corporations are related to the same corporation within the meaning of subsection 3, they shall, for the purposes of subsections 2 and 3, be deemed to be related to each other.

Interpre-
tation

(5) In subsections 3 and 6 and this subsection,

- (a) "related group" means a group of persons each member of which is related to every other member of the group; and
- (b) "unrelated group" means a group of persons that is not a related group. R.S.O. 1960, c. 73, s. 1 (2-5).

Controlled
by related
group,
options, etc.

(6) For the purpose of subsection 3,

- (a) where a related group is in a position to control a corporation, it shall be deemed to be a related group that controls the corporation whether or not it is part of a larger group by whom the corporation is in fact controlled;
- (b) a person who had a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares in a corporation, or to control the voting rights of shares in a corporation, shall, except where the contract provided that the right is not exercisable until the death of an individual designated therein, be deemed to have had the same position in relation to the control of the corporation as if he owned the shares; and
- (c) where a person owns shares in two or more corporations, he shall as shareholder of one of the corporations be deemed to be related to himself as shareholder of each of the other corporations. R.S.O. 1960, c. 73, s. 1 (6); 1961-62, c. 23, s. 1 (2).

Persons
related by
blood
relationship,
etc.

(7) For the purpose of clause a of subsection 3,

- (a) persons are connected by blood relationship if one is the child or other descendant of the other or one is the brother or sister of the other;

- (b) persons are connected by marriage if one is married to the other or to a person who is so connected by blood relationship to the other; and
- (c) persons are connected by adoption if one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is so connected by blood relationship, other than as a brother or sister, to the other. R.S.O. 1960, c. 73, s. 1 (7).

2.—(1) For the purposes of this Act, a corporation has a degree of Canadian ownership in a fiscal year if throughout any sixty-day period included in the 120-day period commencing sixty days before the first day of the year, 1966, c. 30, s. 1.

Where
corporation
has degree
of Canadian
ownership

(a) the corporation complied with the following conditions:

- (i) the corporation was resident in Canada,
- (ii) either,

(A) not less than 25 per cent of the issued and outstanding shares of the corporation having full voting rights under all circumstances were owned by one or more individuals resident in Canada, one or more corporations controlled in Canada or a combination thereof, and equity shares representing in the aggregate not less than 25 per cent of that part of the paid-up capital of the corporation that was represented by all the issued and outstanding equity shares of the corporation were owned by one or more individuals resident in Canada, one or more corporations controlled in Canada or a combination thereof, or

(B) a class or classes of shares of the corporation having full voting rights under all circumstances were listed on a prescribed stock exchange in Canada, and it is established in prescribed manner that no one non-resident person and no one corporation that did not comply with sub-subclause A of this subclause owned more than 75 per cent of the issued and outstanding shares of the corporation having full voting rights under all circumstances, alone or in combination with any other person related to such non-resident person or such corporation at any time within the period within the meaning of subsection 3 or 4 of section 1, and a class or classes of equity shares of the corporation representing in the aggregate not less than 50 per cent of that part of the paid-up capital of the corporation that was

represented by all the issued and outstanding equity shares of the corporation were listed on a prescribed stock exchange in Canada, and it is established in prescribed manner that no one non-resident person and no one corporation that did not comply with sub-subclause A of this subclause owned equity shares representing in the aggregate more than 75 per cent of that part of the paid-up capital of the corporation that was represented by all the issued and outstanding equity shares of the corporation, alone or in combination with any other person related to such non-resident person or such corporation at any time within the period within the meaning of subsection 3 or 4 of section 1, and

- (iii) where the fiscal year commences after the 31st day of December, 1964, the number of directors who were resident in Canada was not less than 25 per cent of the total number of directors of the corporation; 1964, c. 11, s. 1, *part*; 1965, c. 22, s. 2 (1, 2), *part*.
- (b) the corporation complied with the conditions specified in subclauses i and iii of clause *a* and was a subsidiary wholly-owned corporation subsidiary to a corporation that throughout the sixty-day period complied with the conditions specified in clause *a* or *c*; or
- (c) the corporation complied with the conditions specified in subclauses i and iii of clause *a* and was a subsidiary-controlled corporation,
 - (i) of which equity shares representing at least 75 per cent of that part of the paid-up capital of the corporation that is represented by all the issued and outstanding equity shares were owned by,
 - (A) the corporation to which it was subsidiary,
 - (B) a corporation controlled in Canada,
 - (C) an individual resident in Canada, or
 - (D) any combination of persons described in sub-subclause A, B or C, and
 - (ii) subsidiary to a corporation that throughout the sixty-day period complied with the conditions specified in clause *a* or *b*. 1965, c. 22, s. 2 (2), *part*.

Idem

- (2) For the purposes of this section, 1964, c. 11, s. 1, *part*.
 - (a) a corporation that has share capital is not controlled in Canada at a particular time unless at that time the corporation is resident in Canada, and,

- (i) more than 50 per cent of its issued and outstanding shares having full voting rights under all circumstances,
- (ii) shares representing in the aggregate more than 50 per cent of its paid-up capital, and
- (iii) equity shares representing in the aggregate more than 50 per cent of that part of the paid-up capital of the corporation that is represented by all the issued and outstanding equity shares,

are owned by,

- (iv) individuals resident in Canada,
- (v) corporations resident in Canada with respect to each of which,
 - (A) more than 50 per cent of the issued shares having full voting rights under all circumstances,
 - (B) shares representing in the aggregate more than 50 per cent of the paid-up capital, and
 - (C) equity shares representing in the aggregate more than 50 per cent of that part of the paid-up capital of the corporation that is represented by all the issued and outstanding equity shares,

are owned by individuals resident in Canada, or

- (vi) any combination of individuals or corporations described in subclause iv or v;

(b) where,

- (i) a non-resident person,
- (ii) a corporation that does not have a degree of Canadian ownership, or
- (iii) a corporation that is related to a non-resident person within the meaning of subsection 3 or 4 of section 1,

has a right, either as an incident of ownership of a share of a corporation or otherwise under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, equity shares in a corporation, those shares shall,

- (iv) unless the right is contingent upon an event that is not reasonable to expect to occur within a reasonable time, or
- (v) unless the right is such that a reasonable man concerned only with the value of the shares would not exercise it,

be deemed,

- (vi) to be owned by the person who has the right,
- (vii) to be owned by a non-resident person, where the person who has the right is a corporation described in subclause ii or iii, and
- (viii) where the shares are unissued,
 - (A) to be issued and outstanding, and
 - (B) to have a paid-up capital value, with respect to each share, equal to,
 - 1. the par value, where the shares have a par value,
 - 2. the amount that would be paid with respect to each share to exercise the right under the terms of the contract, where the shares have no par value and an amount is specified in the contract, or
 - 3. the market value at the end of the relevant sixty-day period of a share of the class of shares of that corporation that is most closely similar to that share, where the shares have no par value and no amount is specified in the contract,

and any other person who actually owns the shares in respect of which that right exists shall be deemed not to own those shares;

- (c) where shares are owned by a trustee resident in Canada, other than a trustee,
 - (i) who is a trustee under,
 - (A) a registered pension fund or plan,
 - (B) a deferred profit sharing plan,
 - (C) an employees profit sharing plan, or
 - (D) a supplementary unemployment benefit plan,in relation to which at least 75 per cent of the employees covered by the plan are resident in Canada, and
 - (ii) who owns, as trustee, if he is a trustee under a registered pension fund or plan, less than 10 per cent of the issued and outstanding equity shares of a corporation that is an employer of employees covered by the registered pension fund or plan, or a corporation related thereto within the meaning of subsection 3 or 4 of section 1,

the shares shall be deemed not to be owned by a person resident in Canada unless it is established that each beneficiary under the trust is an individual resident in Canada; 1965, c. 22, s. 2 (3).

(d) where, during any relevant sixty-day period referred to in subsection 1, a director of a corporation who is resident in Canada dies and within sixty days thereafter another person who is resident in Canada is appointed or elected to be a director of the corporation, such other person shall be deemed to have become such a director immediately upon the death of the deceased director; 1964, c. 11, s. 1, *part.*

(e) "equity share" means,

(i) a share, other than a non-participating share, the owner of which has, as owner thereof, a right,

(A) to a dividend, and

(B) to a part of the surplus of the corporation after repayment of capital and payment of arrears of dividend, upon the redemption of the share, a reduction of the capital of the corporation or the winding up of the corporation,

at least as great, in any event, as the right of the owner of any other share, other than a non-participating share, of the corporation, when the magnitude of the right in each case is expressed as a rate based on the paid-up capital value of the share to which the right relates, or

(ii) a share, other than a non-participating share, the owner of which has, as owner thereof, a right,

(A) to a dividend, after a dividend at a rate not in excess of 8 per cent per annum of the paid-up capital value of each share has been paid to the owners of shares of a class other than the class to which that share belongs, and

(B) to a part of the surplus of the corporation after repayment of capital and payment of arrears of dividend, upon the redemption of the share, a reduction of the capital of the corporation or the winding up of the corporation, after a payment of a part of the surplus at a rate not in excess of 10 per cent of the paid-up capital value of each share has been made to the owners of shares of a class other than the class to which that share belongs,

at least as great, in any event, as the right of the owner of any other share, other than a non-participating share, of the corporation, when the magnitude of the right in each case is expressed as a rate based on the paid-up capital value of the share to which the right relates;

(f) "non-participating share" means a share the owner of

which is not entitled to receive, as owner thereof, any dividend other than a dividend, whether cumulative or not,

- (i) at a fixed annual rate or amount, or
 - (ii) at an annual rate or amount not in excess of a fixed annual rate or amount;
- (g) "paid-up capital value", with reference to a share, means,
- (i) in the case of an unissued share that is deemed by clause *b* to be issued and outstanding, the amount determined under sub-subclause B of subclause viii of that clause, and
 - (ii) in any other case, an amount equal to the paid-up capital of the corporation that is represented by the shares of the class to which that share belongs divided by the number of shares of that class that are in fact issued and outstanding; and
- (h) where,
- (i) the paid-up capital of a corporation that is represented by all the issued and outstanding equity shares of the corporation is less than 50 per cent of the paid-up capital of the corporation that is represented by all the issued and outstanding shares of the corporation other than non-participating shares, or
 - (ii) a non-participating share of the corporation, the owner of which has, as owner, a right to a dividend,
 - (A) at a fixed annual rate in excess of 8 per cent, or
 - (B) at an annual rate not in excess of a fixed maximum annual rate, if the fixed maximum annual rate is in excess of 8 per cent,

when the right to the dividend is expressed as a rate based on the paid-up capital value of the share to which the right relates, is issued and outstanding,

the issued and outstanding equity shares of the corporation shall be deemed not to be equity shares. 1965, c. 22, s. 2 (4).

Idem,
election

(3) Where a corporation so elects, that portion of subsection 1 that precedes clause *a* thereof shall, for the 1963 fiscal year of that corporation, be read as follows:

- (1) For the purposes of this Act, a corporation has a degree of Canadian ownership in a fiscal year if throughout any sixty-day period commencing after the 13th day of June, 1963, and ending before the 1st day of May, 1964,
1965, c. 22, s. 2 (5).

(4) Where a corporation so elects, that portion of subsection 1 that precedes clause a thereof shall, for the 1964 and 1965 fiscal years of that corporation, be read as follows: ^{Idem, election}

- (1) For the purposes of this Act, a corporation has a degree of Canadian ownership in a fiscal year if throughout any sixty-day period commencing after the 13th day of June, 1963, and ending before the 1st day of January, 1965,
- 1965, c. 22, s. 2 (6).

3.—(1) In this Act, “permanent establishment” includes branches, mines, oil wells, farms, timberlands, factories, workshops, warehouses, offices, agencies, and other fixed places of business. ^{Permanent establishment}

(2) Where a corporation carries on business through an employee or agent who has general authority to contract for the corporation or who has a stock of merchandise owned by the corporation from which he regularly fills orders that he receives, such employee or agent shall be deemed to operate a permanent establishment of the corporation. ^{Idem}

(3) The fact that a corporation has business dealings through a commission agent, broker or other independent agent shall not of itself be deemed to mean that the corporation has a permanent establishment. ^{Idem}

(4) The fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary controlled corporation engaged in a trade or business in a place shall not of itself be deemed to mean that the first-mentioned corporation is operating a permanent establishment in that place. R.S.O. 1960, c. 73, s. 2 (1-4).

(5) An insurance corporation is deemed to have a permanent establishment in each jurisdiction in which the corporation is registered or licensed to do business. 1961-62, c. 23, s. 2 (1). ^{Idem}

(6) The fact that a corporation maintains an office solely for the purchase of merchandise shall not of itself be deemed to mean that the corporation has a permanent establishment in that office. ^{Idem}

(7) Where a corporation, otherwise having a permanent establishment in Canada, owns land in a province, such land is a permanent establishment. R.S.O. 1960, c. 73, s. 2 (6-7). ^{Idem}

(8) Where a corporation, not otherwise having a permanent establishment in Canada, is incorporated under the laws of a jurisdiction outside of Canada, which jurisdiction has not entered into a Tax Convention or Treaty with Canada for the fiscal year, and owns land in a province, such land shall be deemed to be a permanent establishment in the province. 1968, c. 20, s. 2, *part.* ^{Idem}

- Idem (9) Where a corporation incorporated under the laws of a jurisdiction outside Canada that has entered into a Tax Convention or Treaty with Canada for the fiscal year has elected to be taxed under Part I of the *Income Tax Act* (Canada) pursuant to section 110 of the *Income Tax Act* (Canada) and owns land in a province or territory but does not otherwise have a permanent establishment in Canada, such land shall be deemed to be a permanent establishment in the province or territory. 1968-69, c. 19, s. 2 (1).
- R.S.C. 1952, c. 148
- Interpretation (10) For the purposes of subsections 7, 8 and 9, a corporation "owns land" if it has a legal, equitable or beneficial interest in the land. 1968, c. 20, s. 2, *part*; 1968-69, c. 19, s. 2 (2).
- Idem (11) The fact that a non-resident corporation in a fiscal year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada, whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the fiscal year.
- Idem (12) The use of substantial machinery or equipment in a particular place at any time in a fiscal year of a corporation constitutes a permanent establishment of such corporation in that place for the fiscal year. R.S.O. 1960, c. 73, s. 2 (8, 9).
- Idem (13) Where a corporation has no fixed place of business, it has a permanent establishment in the principal place in which the corporation's business is conducted.
- Idem (14) A corporation has a permanent establishment in the place designated in its charter or by-laws as being its head office. 1967, c. 15, s. 1.

PART II

LIABILITY FOR TAXES

- Taxes payable 4.—(1) Every corporation that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act.
- Fiscal year (2) For the purposes of this Act, where a fiscal year is referred to by a reference to a calendar year, the reference is to the fiscal year or years coinciding with, or ending in, that year.
- Incomplete fiscal year (3) Where a corporation ceases to have a permanent establishment in Ontario during a fiscal year or the existence of a corporation is terminated during a fiscal year, it shall, in respect of such incomplete fiscal year, pay the taxes imposed by this Act in the same manner as though such fiscal year ended on the date

on which it ceased to have a permanent establishment in Ontario or upon which its existence was terminated, as the case may be. R.S.O. 1960, c. 73, s. 3.

5.—(1) Except as otherwise provided in this Act, every corporation that has a permanent establishment in Ontario shall, for every fiscal year of the corporation, pay a tax of 12 per cent calculated on its taxable income. Income tax

(2) There may be deducted from the tax otherwise payable by a corporation under this section for a fiscal year an amount equal to 12 per cent of that portion of its taxable income that is earned in the fiscal year in each jurisdiction other than Ontario. 1967, c. 15, s. 2 (1). Deductions from tax on income—allocation of taxable income

(3) Where in a fiscal year a corporation has no permanent establishment outside Ontario, all of its taxable income for the year shall be deemed to have been earned in Ontario. Allocation of taxable income

(4) Where in a fiscal year a corporation had no permanent establishment in Ontario, all of its taxable income for the fiscal year shall be deemed to have been earned in jurisdictions outside Ontario. Idem

(5) Except as otherwise provided, where in a fiscal year a corporation had a permanent establishment in Ontario and a permanent establishment in any other jurisdiction, the amount of its taxable income that shall be deemed to have been earned in the fiscal year in that jurisdiction is one-half the aggregate of, Idem

- (a) that proportion of its taxable income for the fiscal year that the gross revenue for the fiscal year attributable to the permanent establishment in that jurisdiction is of its total gross revenue for the fiscal year; and
- (b) that proportion of its taxable income for the fiscal year that the aggregate of the salaries and wages paid in the fiscal year by the corporation to the employees of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation. R.S.O. 1960, c. 73, s. 4 (3-5).

(6) For the purpose of subsection 5 of this section and subsection 7 of section 6, Gross revenue attributable to a permanent establishment

- (a) except as provided in clause *d*, where the destination of a shipment of merchandise to a customer to whom the merchandise is sold is in a jurisdiction in which the corporation making the sale has a permanent establishment, the gross revenue derived therefrom is attributable to that permanent establishment;
- (b) except as provided in clauses *c*, *d* and *e*, where the destination of a shipment of merchandise to a customer to whom the merchandise is sold is in a jurisdiction in which the corporation making the sale has no perma-

ment establishment, the gross revenue derived therefrom is attributable to the permanent establishment to which the person negotiating the sale may reasonably be regarded as being attached;

- (c) except as provided in clause *e*, where the destination of a shipment of merchandise to a customer to whom the merchandise is sold is in a jurisdiction outside Canada in which the corporation making the sale has no permanent establishment,
 - (i) if the merchandise was produced or manufactured, or produced and manufactured, entirely in one province or territory of Canada by the corporation, the gross revenue derived therefrom is attributable to its permanent establishment in that province or territory, or
 - (ii) if the merchandise was produced or manufactured, or produced and manufactured, partly in a province or territory of Canada and partly in another place by the corporation, the gross revenue derived therefrom that is attributable to its permanent establishment in that province or territory is that proportion thereof that the salaries and wages paid in the fiscal year to employees of the permanent establishment in that province or territory where the merchandise was partly produced or manufactured, or partly produced and manufactured, is of the aggregate of the salaries and wages paid in the fiscal year to employees of the permanent establishments where the merchandise was produced or manufactured, or produced and manufactured;
- (d) for the purposes of clauses *a* and *b* and except as provided in clause *e*, where a customer to whom merchandise is sold instructs that shipment thereof be made to another person, the destination of the shipment of the merchandise shall be deemed to be in the jurisdiction in which the permanent establishment of the customer negotiating the purchase of the merchandise is situated;
- (e) for the purpose of clause *c*, where a customer to whom merchandise is sold instructs that shipment be made to another person and the permanent establishment of the customer negotiating the purchase of the merchandise is situated in a jurisdiction outside Canada in which the corporation making the sale has no permanent establishment,
 - (i) if the merchandise was produced or manufactured, or produced and manufactured, entirely in one province or territory of Canada by the corporation, the gross revenue derived therefrom is attributable to its permanent establishment in that province or territory, or

- (ii) if the merchandise was produced or manufactured, or produced and manufactured, partly in a province or territory of Canada and partly in another place by the corporation, the gross revenue derived therefrom that is attributable to its permanent establishment in that province or territory is that proportion thereof that the salaries and wages paid in the fiscal year to employees of the permanent establishment in that province or territory where the merchandise was partly produced or manufactured, or partly produced and manufactured, is of the aggregate of the salaries and wages paid in the fiscal year to employees of the permanent establishments where the merchandise was produced or manufactured, or produced and manufactured;
- (f) where services are performed by a corporation in a jurisdiction in which the corporation has a permanent establishment, the gross revenue derived therefrom is attributable to that permanent establishment;
- (g) where services are performed by a corporation in a jurisdiction in which the corporation has no permanent establishment, the gross revenue derived therefrom is attributable to the permanent establishment to which the person negotiating the contract may reasonably be regarded as being attached;
- (h) where standing timber or the right to cut standing timber is sold, the gross revenue derived therefrom is attributable to the permanent establishment that includes the timberlands on which the timber is standing;
- (i) gross revenue that arises from leasing land owned by the corporation in a province shall be attributable to the province where that land is situated; and
- (j) where land which constitutes a permanent establishment in a province under subsections 7, 8 and 9 of section 3 is sold, and the profit derived therefrom is included in the corporation's income, the gross revenue of the corporation derived from such sales for the fiscal year shall be attributed to that permanent establishment. R.S.O. 1960, c. 73, s. 4 (6); 1961-62, c. 23, s. 3 (1); 1968, c. 20, s. 3 (1); 1968-69, c. 19, s. 3 (1).

(7) For the purpose of subsections 5, 15, 30, 31, 32 and 33 of this section and the corresponding subsections of section 6, where part of the operations of a corporation are conducted jointly or in partnership with one or more other persons, Corporations in partnership with others

- (a) the gross revenue of the corporation for the fiscal year; and
- (b) the salaries and wages paid in the fiscal year by the corporation,

shall include, in respect of those operations, only that proportion of,

- (c) the total gross revenue of the joint operations or partnership for the fiscal year ending in the calendar year; and
- (d) the total salaries and wages paid jointly by the operators or partners in the fiscal year ending in the calendar year,

respectively, that,

- (e) the share of the corporation of the profit or loss for the fiscal year from the joint operations or partnership,

is of,

- (f) the total profit or loss for the fiscal year from the joint operations or partnership. 1961-62, c. 23, s. 3 (2).

Fees to be
deemed
salary

(8) For the purposes of subsections 5, 15, 30, 31, 32 and 33 of this section and the corresponding subsections of section 6, where a corporation pays a fee to a person under an agreement pursuant to which the person or employees of that person perform services for the corporation that would normally be performed by employees of the corporation, the fee so paid shall be deemed to be salary paid in the fiscal year by the corporation and that part of the fee that may reasonably be regarded as payment in respect of services rendered at a particular permanent establishment of the corporation shall be deemed to be salary paid to an employee of that permanent establishment.

Exception

(9) For the purpose of subsection 8, a fee does not include a commission paid to a person who is not an employee of the corporation.

Allocation of
investment
income

(10) For the purpose of subsection 5 of this section and subsection 7 of section 6, interest on bonds, debentures and mortgages, dividends on shares of capital stock and rentals and royalties for property that is not used in the regular business operations of a corporation shall be excluded when calculating the gross revenue of the corporation or any part thereof. R.S.O. 1960, c. 73, s. 4 (7-9).

Insurance
corporations,
allocation of
taxable
income

(11) Notwithstanding subsection 5, the proportion of the taxable income of an insurance corporation that is resident in Canada and does not carry on a life insurance business, that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is that proportion of its taxable income for the fiscal year that the aggregate of,

- (a) its net premiums for the year in respect of insurance on properties situated in that jurisdiction; and
- (b) its net premiums for the year in respect of insurance other than on property, from contracts from persons resident in that jurisdiction,

is of the total net premiums for the fiscal year of the corporation. 1968-69, c. 19, s. 3 (2), *part*.

(12) Notwithstanding subsection 5, the proportion of the ^{Idem} taxable income of an insurance corporation, other than an insurance corporation to which subsection 11 applies, that shall be deemed to have been earned in a fiscal year in a province or territory of Canada, outside Ontario, is that proportion of its taxable income for the fiscal year that the aggregate of,

- (a) its net premiums for the year in respect of insurance on properties situated in that province or territory of Canada, outside Ontario; and
- (b) its net premiums for the year in respect of insurance, other than on property, from contracts from persons resident in that province or territory of Canada, outside Ontario,

is of the total net premiums for the fiscal year in respect of insurance on properties situated in Canada and with respect to contracts with persons resident in Canada that are included in computing its income. 1968-69, c. 19, s. 3 (2), *part*; 1970, c. 69, s. 2 (1).

(13) In subsection 11 and 12, "net premiums" of a corporation ^{Interpre-} for a fiscal year means the aggregate of the gross premiums ^{tation} received by the corporation in the fiscal year, other than consideration received for annuities, minus the aggregate for the fiscal year of,

- (a) premiums paid for reinsurance;
- (b) dividends or rebates paid or credited to policyholders; and
- (c) rebates or returned premiums paid in respect of the cancellation of policies,

by the corporation. R.S.O. 1960, c. 73, s. 4 (11); 1968-69, c. 19, s. 3 (3).

(14) In subsections 11 and 12, "total net premiums" of a ^{Idem} corporation for a fiscal year means the aggregate of,

- (a) its net premium income in respect of insurance on property situate in each province or territory of Canada and each country other than Canada in which the corporation has a permanent establishment; and
- (b) its net premium income in respect of insurance other than on property, from contracts with persons resident in each province or territory of Canada and each country other than Canada in which the corporation has a permanent establishment. R.S.O. 1960, c. 73, s. 4 (12); 1968-69, c. 19, s. 3 (4).

Banks
allocation of
taxable
income

(15) Notwithstanding subsection 5, the amount of taxable income of a bank that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is one-third of the aggregate of,

- (a) that proportion of its taxable income for the fiscal year that the aggregate of the salaries and wages paid in the year by the bank to the personnel of its permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the bank; and
- (b) twice that proportion of its taxable income for the fiscal year that the aggregate amount of loans and deposits of its permanent establishments in that jurisdiction for the fiscal year is of the aggregate of all loans and deposits of the bank for the fiscal year.

Idem

(16) For the purpose of subsection 15, the amount of loans for a fiscal year is one-twelfth of the aggregate of the amounts outstanding on the loans made by the bank at the close of business on the last day of each month in the fiscal year.

Idem

(17) For the purpose of subsection 15, the amount of deposits for a fiscal year is one-twelfth of the aggregate of the amounts on deposit with the bank at the close of business on the last day of each month in the fiscal year.

Idem

(18) For the purpose of subsections 16 and 17, loans and deposits do not include bonds, stocks, debentures, items in transit and deposits in favour of Her Majesty in right of Canada.

Trust and
loan
corporations,
allocation of
taxable
income

(19) Notwithstanding subsection 5, the amount of taxable income of a trust and loan corporation or a trust corporation or a loan corporation that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is that proportion of its taxable income for the fiscal year that the gross revenue of its permanent establishments in that jurisdiction for the fiscal year is of the total gross revenue for the fiscal year of the corporation.

Interpre-
tation

(20) For the purpose of subsection 19, the "gross revenue of its permanent establishments in that jurisdiction" for a fiscal year means the aggregate of the gross revenue of the corporation for the fiscal year arising from,

- (a) loans secured by real property situated in that jurisdiction;
- (b) loans not secured by real property to persons residing in that jurisdiction;
- (c) loans administered by the permanent establishments of the corporation in that jurisdiction made to persons residing in another jurisdiction in which the corporation has no permanent establishment but not including loans secured by real property situated in another jurisdiction in which the corporation has a permanent establishment; and

- (d) business conducted at the permanent establishments of the corporation in that jurisdiction, other than revenue in respect of loans.

(21) Notwithstanding subsection 5, the amount of taxable income of a railway corporation that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is, unless subsection 22 applies, one-half the aggregate of, Railway corporations, allocation of taxable income

- (a) that proportion of its taxable income for the fiscal year that its equated track miles in that province or territory of Canada is of its equated track miles in Canada; and
- (b) that proportion of its taxable income for the fiscal year that its gross ton-miles for the fiscal year in that province or territory of Canada is of its gross ton-miles for the fiscal year in Canada.

(22) Where a corporation to which subsection 21 would apply Idem if this subsection did not apply thereto operates an airline service, operate ships, operates hotels or receives substantial revenues that are petroleum or natural gas royalties, or does a combination of two or more of those things, the amount of its taxable income that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is the aggregate of the amounts computed,

- (a) by applying the provisions of subsection 27 to that part of its taxable income for the fiscal year that might reasonably be considered as having arisen from the operation of the airline service;
- (b) by applying the provisions of subsection 33 to that part of its taxable income for the fiscal year that might reasonably be considered as having arisen from the operation of the ships;
- (c) by applying the provisions of subsection 5 to that part of its taxable income for the fiscal year that might reasonably be considered to have arisen from the operation of the hotels;
- (d) by applying the provisions of subsection 5 to that part of its taxable income for the fiscal year that might reasonably be considered to have arisen from the ownership by the corporation of petroleum or natural gas rights or any interest therein; and
- (e) by applying the provisions of subsection 21 to the remaining portion of its taxable income for the fiscal year.

(23) For the purpose of making an allocation required by Idem clause b of subsection 22, a reference in subsection 33 to "salaries and wages paid in the fiscal year by the corporation to employees"

shall be read as a reference to salaries and wages paid by the corporation to employees employed in the operation of permanent establishments, other than ships, maintained for the shipping business.

Idem

(24) For the purpose of making an allocation required by clause *c* of subsection 22,

- (a) a reference in subsection 5 to "gross revenue for the fiscal year attributable to the permanent establishment in that jurisdiction" shall be read as a reference to the gross revenue of the corporation from operating hotels in a province or territory of Canada outside Ontario;
- (b) a reference in subsection 5 to "total gross revenue for the fiscal year" shall be read as a reference to the total gross revenue of the corporation for the fiscal year from operating hotels; and
- (c) a reference in subsection 5 to "salaries and wages paid in the fiscal year by the corporation to the employees" shall be read as a reference to salaries and wages paid to employees engaged in the operations of its hotels.

Idem

(25) Notwithstanding subsection 10, for the purpose of making an allocation required by clause *d* of subsection 22,

- (a) a reference in subsection 5 to "gross revenue for the fiscal year attributable to the permanent establishment in that jurisdiction" shall be read as a reference to the gross revenue of the corporation from the ownership by the corporation of petroleum and natural gas rights in lands in a province or territory of Canada outside Ontario and any interest therein;
- (b) a reference in subsection 5 to "total gross revenue for the fiscal year" shall be read as a reference to the total gross revenue of the corporation from ownership by the corporation of petroleum and natural gas rights and any interest therein; and
- (c) a reference in subsection 5 to "salaries and wages paid in the fiscal year by the corporation to employees" shall be read as a reference to salaries and wages paid to employees employed in connection with the corporation's petroleum and natural gas rights and interests therein.

Interpre-
tation

(26) For the purpose of subsection 21, "the equated track miles" in a specified place means the aggregate of,

- (a) the number of miles of first main track;
- (b) 80 per cent of the number of miles of other main tracks; and

- (c) 50 per cent of the number of miles of yard tracks and sidings,

in that place.

(27) Notwithstanding subsection 5, the amount of taxable income of an airline corporation that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is an amount that is equal to one-quarter of the aggregate of,

Airline corporations, allocation of taxable income

- (a) that proportion of its taxable income for the fiscal year that the capital cost of all fixed assets of the corporation, except aircraft, in that province or territory of Canada at the end of the fiscal year is of the capital cost of all its fixed assets, except aircraft, in Canada at the end of the fiscal year; and
- (b) that proportion of its taxable income that three times the number of revenue plane miles flown by its aircraft in that province or territory of Canada during the fiscal year is of the total number of revenue plane miles flown by its aircraft in Canada during the fiscal year.

(28) For the purpose of subsection 27, "revenue plane miles flown" shall be weighted according to payload capacity of the aircraft operated. R.S.O. 1960, c. 73, s. 4 (13-26).

Interpretation

(29) For the purpose of subsection 28, "payload capacity" of an aircraft means,

Idem

- (a) for a type of aircraft listed in Schedule G to the Regulations made under the *Income Tax Act* (Canada), the number of pounds shown therein for that aircraft; and
- (b) for a type of aircraft not listed in Schedule G to the Regulations made under the *Income Tax Act* (Canada), the average maximum commercial load expressed in pounds of the aircraft with fuel and oil tanks half full as determined by the Minister. 1968-69, c. 19, s. 3 (5).
- R.S.C. 1952, c. 148

(30) Notwithstanding subsection 5, the amount of taxable income of a corporation the chief business of which is the operation of grain elevators that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is one-half the aggregate of,

Grain elevator operators, allocation of taxable income

- (a) that proportion of its taxable income for the fiscal year that the number of bushels of grain received in the fiscal year in the elevators operated by the corporation in that jurisdiction is of the total number of bushels of grain received in the fiscal year in all the elevators operated by the corporation; and

- (b) that proportion of its taxable income for the fiscal year that the aggregate of salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

Bus and
truck
operators,
allocation
of taxable
income

(31) Notwithstanding subsection 5, the amount of taxable income of a corporation the chief business of which is the transportation of goods and passengers, other than by the operation of a railway, steamship or airline service, that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is one-half of the aggregate of,

- (a) that proportion of its taxable income for the fiscal year that the number of miles travelled by its vehicles in that jurisdiction in the fiscal year is of the total number of miles travelled by its vehicles in the fiscal year; and
- (b) that proportion of its taxable income for the fiscal year that the aggregate of salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

Pipeline
operators,
allocation
of taxable
income

(32) Notwithstanding subsection 5, the amount of taxable income of a corporation the chief business of which is the operation of a pipeline for oil, gas or water that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is one-half of the aggregate of,

- (a) that proportion of its taxable income for the fiscal year that the number of miles of pipe of the corporation in that province or territory of Canada is of the number of miles of pipe of the corporation in Canada; and
- (b) that proportion of its taxable income for the fiscal year that the aggregate of the salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that province or territory of Canada is of the aggregate of all salaries and wages paid in all its permanent establishments in Canada in the fiscal year by the corporation.

Navigation
companies,
allocation
of taxable
income

(33) Notwithstanding subsection 5, the amount of taxable income of a corporation, the chief business of which is the operation of ships, that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is the aggregate of,

- (a) that portion of its allocable income for the fiscal year that the port-call-tonnage in that province or territory of Canada is of the port-call-tonnage in Canada; and

- (b) if its taxable income for the fiscal year exceeds its allocable income for the fiscal year, that portion of the excess that the aggregate of the salaries and wages paid in the fiscal year by the corporation to employees of any permanent establishment, other than a ship, in that province or territory of Canada, is of the aggregate of salaries and wages paid in the fiscal year by the corporation to employees of permanent establishments, other than ships, in Canada.

(34) For the purposes of subsection 33,

Interpretation

- (a) "allocable income for the fiscal year" means that portion of the taxable income of the corporation for the fiscal year that the port-call-tonnage in Canada is of the total port-call-tonnage;
- (b) "port-call-tonnage in Canada" means the aggregate of the products obtained by multiplying, for each ship operated by the corporation, the number of calls made in the fiscal year by that ship at ports in Canada by the number of tons of the registered net tonnage of that ship;
- (c) "port-call-tonnage in that province or territory of Canada" means the aggregate of the products obtained by multiplying, for each ship operated by the corporation, the number of calls made in the fiscal year by that ship at ports in that province or territory of Canada by the number of tons of registered net tonnage of that ship; and
- (d) "total port-call-tonnage" means the aggregate of the products obtained by multiplying, for each ship operated by the corporation, the number of calls made in the fiscal year by that ship at ports anywhere by the number of tons of the registered net tonnage of that ship. R.S.O. 1960, c. 73, s. 4 (28-32).

(35) Where part of the business of a corporation for a fiscal year, other than a corporation described in subsection 11, 15, 19, 21, 27, 30, 31, 32 or 33, consisted of operations normally conducted by a corporation described in one of those subsections, the corporation and the Minister may agree to determine the amount of taxable income deemed to have been earned in the fiscal year in a jurisdiction outside Ontario as the aggregate of the amounts computed,

Divided businesses, allocation of taxable income

- (a) by applying the provisions of such of those subsections as would have been applicable if it had been a corporation described therein to the portion of its taxable income for the fiscal year that might reasonably be considered to have arisen from that part of the business; and

- (b) by applying the provisions of subsection 5 to the remaining portion of its taxable income for the fiscal year. R.S.O. 1960, c. 73, s. 4 (33); 1968, c. 20, s. 3 (2).

Special
allocation
formula

(36) Where a corporation that is incorporated under the laws of a jurisdiction outside Canada and that is not a non-resident owned investment corporation, a foreign business corporation or a corporation to which subsection 27 or 33 applies has a permanent establishment in Ontario, this section applies as though,

- (a) the corporation had no permanent establishment outside Canada;
- (b) its taxable income computed under section 31 of the *Income Tax Act* (Canada) was its total taxable income; and
- (c) such total taxable income were allocated among the provinces and territories of Canada in accordance with subsections 5 to 26, subsections 30 to 32 and subsection 35, or such of those subsections as are applicable, on the assumption that the permanent establishments of the corporation in the provinces and territories of Canada are its only permanent establishments and that the amounts and proportions referred to in such of those subsections as are applicable relate exclusively to the activity of the corporation at those permanent establishments,

R.S.C. 1952,
c. 148

provided that, where a corporation to which this subsection applies ships merchandise to one or other of its permanent establishments outside Canada,

- (d) such shipment shall be deemed to be a shipment of merchandise to a customer to whom the merchandise is sold; and
- (e) its gross revenue in Canada subject to allocation under subsection 6 shall be the gross revenue of its permanent establishments in Canada including therein such amount as gross revenue from such shipment as is used under section 31 of the *Income Tax Act* (Canada) in determining the amount of income of the corporation reasonably attributable to the business carried on by the corporation in Canada. R.S.O. 1960, c. 73, s. 4 (34); 1968-69, c. 19, s. 3 (6).

Idem

(37) Where a corporation to which subsection 8 of section 3 applies and where it is not liable to taxation by virtue of subsection 2 of section 2 of the *Income Tax Act* (Canada) as measured under section 31 of that Act, owns land in Ontario or owns land in Ontario and other provinces and territories of Canada, this section applies as though,

- (a) the corporation had no permanent establishment outside Canada;

- (b) the taxable income arising from the sale or rental of land in Canada were its total taxable income; and
- (c) such taxable income were allocated among the provinces and territories of Canada in accordance with such of those subsections referred to in clause c of subsection 36 as are applicable on the assumption that the permanent establishments of the corporation in the provinces and territories of Canada are its only permanent establishments and that the amounts and proportions referred to in such of those subsections as are applicable relate exclusively to the activity of the corporation at those permanent establishments.

(38) Where a corporation to which subsection 9 of section 3 ^{Idem} applies owns land in Ontario or owns land in Ontario and other provinces and territories of Canada, this section applies as though,

- (a) the corporation had no permanent establishment outside Canada;
- (b) the taxable income arising from the sale or rental of land in Canada were its total taxable income; and
- (c) such total taxable income were allocated among the provinces and territories of Canada in accordance with such of those subsections referred to in subsection 36 as are applicable, on the assumption that the permanent establishments of the corporation in the provinces and territories of Canada are its only permanent establishments and that the amounts and proportions referred to in such of those subsections as are applicable relate exclusively to the activity of the corporation at those permanent establishments. 1968-69, c. 19, s. 3 (7).

(39) Where a corporation has a permanent establishment in Ontario and has received income in the fiscal year in the form of ^{Foreign tax credits} dividends, interest, rents or royalties that was derived from sources within a jurisdiction outside Canada or is deemed to have received income in the form of dividends and interest from a country outside Canada by virtue of the provisions of subsection 5 of section 79D of the *Income Tax Act* (Canada), hereinafter in this subsection referred to as "foreign investment income", or where a corporation having received foreign investment income in the fiscal year from sources within a jurisdiction outside Canada also received income in the fiscal year from a business carried on by it in that jurisdiction, hereinafter in this subsection referred to as "foreign business income", and where, for the purposes of subsection 1a of section 41 of the *Income Tax Act* (Canada), such foreign investment income has not been included as part of such foreign business income, and, for the purposes of subsections 5, 19, 20, 22, 24, 25 and 35, or such of those subsections as are applicable, has been excluded when calculating its gross revenue, or any part

R.S.C. 1952,
c. 148

R.S.C. 1952,
c. 148

thereof, and where the corporation is entitled to a deduction under section 41 of the *Income Tax Act* (Canada), hereinafter in this subsection referred to as "foreign tax credit", with respect to any income or profits tax paid to such jurisdiction on such foreign investment income or on such foreign investment income and foreign business income or is deemed to have been paid as income or profits tax to such jurisdiction by virtue of the provisions of subsection 5 of section 79D of the *Income Tax Act* (Canada), the corporation may deduct from the tax otherwise payable under this section an amount equal to the lesser of,

- (a) 10 per cent of that part of such foreign investment income that is included in that portion of taxable income that remains after deducting from such taxable income the portions thereof deemed to have been earned in jurisdictions other than Ontario measured in accordance with subsections 5 to 36; or
- (b) the proportion of the deficiency between the foreign tax credit that would be allowed if no provincial tax abatement under section 40 of the *Income Tax Act* (Canada) were applicable and the foreign tax credit that is allowed when the provincial tax abatement provided by section 40 of the *Income Tax Act* (Canada) has been applied which,
 - (i) the amount of that portion of its taxable income for the fiscal year that is deemed to have been earned in Ontario measured in accordance with subsection 2 of section 40 of the *Income Tax Act* (Canada),

bears to,

- (ii) the total amount of the portions of its taxable income for the fiscal year that are deemed to have been earned in the provinces of Canada measured in accordance with subsection 2 of section 40 of the *Income Tax Act* (Canada). 1970, c. 69, s. 2 (2).

Logging
tax credit

(40) There may be deducted from the tax otherwise payable for a fiscal year by a corporation an amount equal to one-third of the tax payable by the corporation for the same fiscal year under *The Logging Tax Act*.

R.S.O. 1970,
c. 258

Interpre-
tation

(41) In subsection 40, "tax otherwise payable" means the tax for the fiscal year otherwise payable by the corporation under this section after making any deduction applicable under subsection 2. 1962-63, c. 26, s. 1 (3).

Exemptions:

(42) No tax is payable under this section upon the taxable income of a corporation for a period when that corporation was, 1970, c. 69, s. 2 (3).

municipal
authorities

- (a) a municipality in Canada, or a municipal or public body performing a function of government in Canada;

- (b) a corporation, commission or association not less than 90 per cent of the shares or capital of which was owned by Her Majesty in right of Canada or a province or by a Canadian municipality, or a wholly-owned corporation subsidiary to such a corporation, commission or association, except as provided by section 59; municipal
or provincial
corporations
- (c) an agricultural organization, a board of trade or a chamber of commerce, no part of the income of which is payable to or was otherwise available for the personal benefit of any proprietor, member or shareholder thereof; certain
organiza-
tions
- (d) a charitable organization, all the resources of which were devoted to charitable activities carried on by the organization itself and no part of the income of which was payable to or was otherwise available for the personal benefit of any proprietor, member or shareholder thereof; R.S.O. 1960, c. 73, s. 4 (37), cls. (a-d). charitable
organiza-
tions
- (e) a corporation that was constituted exclusively for charitable purposes, no part of the income of which was payable to or was otherwise available for the personal benefit of any proprietor, member or shareholder thereof, that has not since the 1st day of June, 1950, acquired control of any other corporation and that during the fiscal year,
 - (i) did not carry on any business,
 - (ii) had no debts incurred since the 1st day of June, 1950, other than obligations arising in respect of salaries, rents and other current operating expenses, and
 - (iii) except in the case of a corporation that was constituted exclusively for charitable purposes before the 1st day of January, 1940, expended amounts each of which is,
 - (A) an expenditure in respect of charitable activities carried on by the corporation itself,
 - (B) a gift to an organization in Canada the income of which for the period is exempt from tax under this section by virtue of clause d,
 - (C) a gift to a corporation resident in Canada the income of which for the period is exempt from tax under this section by virtue of this clause, or
 - (D) a gift to Her Majesty in right of Canada or a province or to a Canadian municipality,and the aggregate of which is not less than 90 per cent of the income of the corporation for the fiscal year; R.S.O. 1960, c. 73, s. 4 (37), cl. (e); 1961-62, c. 23, s. 3 (3). non-profit
corporations

non-profit
corporation
for
scientific
research

(f) a corporation that was constituted exclusively for the purpose of carrying on or promoting scientific research, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, that has not acquired control of any other corporation and that, during the fiscal year,

(i) did not carry on any business, and

(ii) expended amounts in Canada each of which is,

(A) an expenditure on scientific research directly undertaken by or on behalf of the corporation, or

(B) a payment to an association, university, college or research institution, described in subclause ii or iii of clause a of subsection 1 of section 46, to be used for scientific research,

and the aggregate of which is not less than 90 per cent of the corporation's income for the fiscal year; 1961-62, c. 23, s. 3 (4).

housing
for aged

(g) a corporation that was constituted exclusively for the purpose of providing low-cost housing accommodation for the aged, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof;

labour
organiza-
tions

(h) a labour organization or society or a benevolent or fraternal benefit society or order;

non-profit
organiza-
tions

(i) a club, society or association organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit, no part of the income of which was payable to or otherwise available for the personal benefit of any proprietor, member or shareholder thereof;

mutual
insurance
corporations

(j) a mutual insurance corporation that received its premiums wholly from the insurance of churches, schools or other charitable organizations;

credit
unions

(k) a corporation incorporated or organized as a credit union or co-operative credit society if,

(i) it was restricted to carrying on business in Ontario and it derived its revenues primarily from,

(A) loans made to or cashing cheques for members residing within Ontario,

(B) bonds of or guaranteed by the government of Canada or Ontario, or

(C) loans made to a co-operative credit society of which it is a member, or

- (ii) the members thereof were corporations or associations,
- (A) incorporated or organized as credit unions substantially all of which derived their revenues primarily from loans made to members or from bonds of or guaranteed by the government of Canada or Ontario,
 - (B) incorporated, organized or registered under co-operative legislation of Ontario and governed thereby, or
 - (C) incorporated or organized for charitable purposes,
- or were corporations or associations no part of the income of which was payable to or otherwise benefited personally any shareholder or member thereof;
- (l) an institutional housing corporation, an institutional holding company or a limited dividend housing corporation within the meaning of those expressions as defined by the *National Housing Act* (Canada); housing corporations
R.S.C. 1952,
c. 188
- (m) a corporation exempt by section 39 as a personal corporation; personal corporations
- (n) a corporation exempt by section 44 as a foreign business corporation; foreign business corporations
- (o) a corporation exempt by subsection 1 of section 48 as a co-operative corporation; co-operatives R.S.O. 1960, c. 73, s. 4 (37), cls. (f-n).
- (p) a corporation established or incorporated solely in connection with, or for the administration of, a registered pension fund or plan, not less than 90 per cent of the income of which for the period was, pension corporations
- (i) from sources in Canada,
 - (ii) from bonds, debentures or other securities issued or guaranteed by,
 - (A) the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by subsection 1 of section 2 of the *Bretton Woods Agreements Act*, or R.S.C. 1952,
c. 19
 - (B) the Inter-American Development Bank, the income from which securities is payable in Canadian currency, or
- (iii) from sources in Canada and from bonds, debentures or other securities described in subclause ii; 1968, c. 20, s. 3 (3); 1970, c. 69, s. 2 (4).

- idem (q) in the case of a corporation referred to in clause *p*, less than 90 per cent but not less than 80 per cent of the income of which for its fiscal year commencing in 1960 was from sources in Canada, "90 per cent" in clause *p* shall, in respect of its application to fiscal years of that corporation commencing in 1961 and 1962, be read as "80 per cent";
- idem (r) in the case of a corporation referred to in clause *p*, less than 80 per cent of the income of which for its fiscal year commencing in 1960 was from sources in Canada, "90 per cent" in clause *p* shall, in respect of its application to the fiscal year of that corporation commencing in 1961, be read as "70 per cent" and, in respect of its application to the fiscal year of that corporation commencing in 1962, be read as "80 per cent"; 1961-62, c. 23, s. 3 (5), *part*.
- farmers' and fishermen's insurers (s) an insurer who was engaged during the fiscal year in no other business than insurance if, in the opinion of the Minister, 50 per cent of the gross premium income for the fiscal year was in respect of the insurance of farm property, property used in fishing, or residences of farmers and fishermen. R.S.O. 1960, c. 73, s. 4 (37), cl. (*p*); 1968, c. 20, s. 3 (4).
- Subsection 42 not applicable (43) Subsection 42 does not apply in respect of the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business.
- Idem (44) For the purpose of subsection 43, the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business shall be computed on the assumption that it had no income or loss from any other source. 1968-69, c. 19, s. 3 (8).
- Apportionment rule (45) Where it is necessary for the purpose of subsection 42 to ascertain the taxable income of a corporation for a period that is part of a fiscal year, the taxable income for the period shall be deemed to be the proportion of the taxable income for the fiscal year that the number of days in the period is of the number of days in the fiscal year.
- When deemed not to have acquired control of another corporation (46) For the purpose of clause *e* of subsection 42,
 (a) a corporation is controlled by another corporation if more than 50 per cent of its issued share capital, having full voting rights under all circumstances, belongs to,
 (i) the other corporation, or
 (ii) the other corporation and persons with whom the other corporation does not deal at arm's length,
 but a corporation shall be deemed not to have acquired control of another corporation if it has not purchased or

otherwise acquired for a consideration any of the shares in the capital stock of that other corporation;

- (b) there shall be included in computing the income of a gifts corporation all gifts received by the corporation other than,

(i) a gift received subject to a trust or direction that the property given, or property substituted therefor, is to be held permanently by the corporation for the purpose of gaining or producing income therefrom, or

(ii) a gift or portion of a gift in respect of which it is established that the donor has not been allowed a deduction under paragraph 1 of subsection 1 of section 37 or a gift made by a person who was not taxable under this section for the fiscal year in which the gift was made. R.S.O. 1960, c. 73, s. 4 (38, 39).

- (47) For the purpose of clause *f* of subsection 42,

Idem

- (a) a corporation is controlled by another corporation if more than 50 per cent of its issued share capital having full voting rights under all circumstances belongs to,

(i) the other corporation, or

(ii) the other corporation and persons with whom the other corporation does not deal at arm's length,

but a corporation shall be deemed not to have acquired control of a corporation if it has not purchased or otherwise acquired for a consideration any of the shares in the capital stock of that corporation; and

- (b) there shall be included in computing a corporation's income all gifts received by the corporation and all amounts contributed to the corporation to be used for scientific research.

- (48) In computing the income of a corporation for the purpose of determining whether it is described by clause *e* or *f* of subsection 42 for a fiscal year, Rules

- (a) there may be deducted an amount not exceeding its income for the fiscal year preceding the taxation year without including or deducting any amount under this subsection; and

- (b) there shall be included any amount that has been deducted under this subsection for the immediately preceding fiscal year. 1961-62, c. 23, s. 3 (6), *part*.

- (49) For the purpose of determining whether a corporation has complied with the requirements of subclause iii of clause *e* or subclause ii of clause *f* of subsection 42 for its first fiscal year after its incorporation, the whole or any part of amounts expended by it Election by new charitable corporation

in the immediately subsequent fiscal year shall, if it so elects, be deemed to have been expended by it in the first fiscal year and not in the subsequent fiscal year.

Contributions to or under registered pension fund or plan not included

(50) In computing the income of a corporation for the purpose of determining whether it is a corporation described in clause *p* of subsection 42 for a fiscal year, contributions to or under the fund or plan in connection with which or for the administration of which the corporation was incorporated shall not be included. 1961-62, c. 23, s. 3 (6), *part*.

Rate of general capital tax

6.—(1) Except as in this section otherwise provided, every corporation that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay a tax of one-tenth of 1 per cent calculated on its taxable paid-up capital. R.S.O. 1960, c. 73, s. 5 (1); 1968-69, c. 18, s. 1 (1).

Minimum tax

(2) Notwithstanding subsection 4, the tax payable under this section shall in no case be less than \$50 except as provided in subsection 18. 1968-69, c. 18, s. 1 (2).

Exceptions

(3) The tax imposed by this section is not payable by any corporation that is liable to a tax under section 8, 9, 10, 11, 12 or 13. 1968-69, c. 18, s. 1 (3).

Deductions from tax on paid-up capital, allocation of taxable paid-up capital

(4) There may be deducted from the tax otherwise payable by a corporation under this section for a fiscal year an amount equal to one-tenth of 1 per cent of that portion of the taxable paid-up capital which is deemed to be used by the corporation in the fiscal year in each jurisdiction outside Ontario. R.S.O. 1960, c. 73, s. 5 (3); 1968-69, c. 18, s. 1 (4).

Allocation of taxable paid-up capital

(5) Where in a fiscal year a corporation has no permanent establishment outside Ontario, all of its taxable paid-up capital for the fiscal year shall be deemed to have been used in Ontario.

Idem

(6) Where in a fiscal year a corporation has no permanent establishment in Ontario, all of its taxable paid-up capital shall be deemed to have been used in jurisdictions outside Ontario.

Idem

(7) Except as otherwise provided, where in a fiscal year a corporation has a permanent establishment in Ontario and a permanent establishment in any other jurisdiction, the amount of its taxable paid-up capital that shall be deemed to have been used in the fiscal year in that other jurisdiction is one-half the aggregate of,

- (a) that proportion of the taxable paid-up capital that the gross revenue for the fiscal year reasonably attributable to the permanent establishments in that jurisdiction is of its total gross revenue for the fiscal year; and
- (b) that proportion of its taxable paid-up capital that the aggregate of the salaries and wages paid in the fiscal year by the corporation to the employees of the permanent

establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

(8) Notwithstanding subsection 7, the amount of taxable paid-up capital of a trust and loan corporation or a trust corporation or a loan corporation that shall be deemed to have been used in a fiscal year in a jurisdiction outside Ontario is that proportion of its taxable paid-up capital that the gross revenue of its permanent establishments in that jurisdiction for the fiscal year is of the total gross revenue for the fiscal year of the corporation.

Trust and loan corporations, allocation of taxable paid-up capital

(9) For the purpose of subsection 8, the provisions of subsection 20 of section 5 apply *mutatis mutandis*.

Interpretation

(10) Notwithstanding subsection 7, the amount of taxable paid-up capital of a corporation, the chief business of which is the operation of grain elevators, that shall be deemed to have been used in a fiscal year in a jurisdiction outside Ontario is one-half the aggregate of,

Grain elevator operators, allocation of taxable paid-up capital

(a) that proportion of its taxable paid-up capital that the number of bushels of grain received in the fiscal year in the elevators operated by the corporation in that jurisdiction is of the total number of bushels of grain received in the fiscal year in all the elevators operated by the corporation; and

(b) that proportion of its taxable paid-up capital that the aggregate of salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

(11) Notwithstanding subsection 7, the amount of taxable paid-up capital of a corporation, the chief business of which is the transportation of goods and passengers, other than by the operation of a railway, steamship or airline service, that shall be deemed to have been used in a fiscal year in a jurisdiction outside Ontario is one-half the aggregate of,

Bus and truck operators, allocation of taxable paid-up capital

(a) that proportion of its taxable paid-up capital that the number of miles travelled by its vehicles in that jurisdiction in the fiscal year is of the total number of miles travelled by its vehicles in the fiscal year; and

(b) that proportion of its taxable paid-up capital that the aggregate of salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

Pipeline
operators,
allocation
of taxable
paid-up
capital

(12) Notwithstanding subsection 7, the amount of taxable paid-up capital of a corporation, the chief business of which is the operation of a pipeline for oil, gas or water, that shall be deemed to have been used in a fiscal year in a province or territory of Canada outside Ontario is one-half the aggregate of,

- (a) that proportion of its taxable paid-up capital that the number of miles of pipe of the corporation in that province or territory of Canada is of the number of miles of pipe of the corporation in Canada; and
- (b) that proportion of its taxable paid-up capital that the aggregate of the salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that province or territory of Canada is of the aggregate of all salaries and wages paid in all its permanent establishments in Canada in the fiscal year by the corporation.

Navigation
companies,
allocation
of taxable
paid-up
capital

(13) Notwithstanding subsection 7, the amount of taxable paid-up capital of a corporation, the chief business of which is operating ships, that shall be deemed to have been used in a fiscal year in a province or territory of Canada outside Ontario is the aggregate of,

- (a) that portion of its allocable paid-up capital that the port-call-tonnage in that province or territory of Canada is of the port-call-tonnage in Canada; and
- (b) if its taxable paid-up capital exceeds its allocable paid-up capital, that portion of the excess that the aggregate of the salaries and wages paid in the fiscal year by the corporation to employees of any permanent establishment, other than a ship, in that province or territory of Canada is of the aggregate of salaries and wages paid in the fiscal year by the corporation to employees of permanent establishments, other than ships, in Canada.

Interpre-
tation

(14) For the purpose of subsection 13, "allocable paid-up capital" means that portion of taxable paid-up capital of the corporation that the port-call-tonnage in Canada is of the total port-call-tonnage and clauses *b*, *c* and *d* of subsection 34 of section 5 apply *mutatis mutandis*.

Idem,
airlines

(15) Notwithstanding subsection 7, the amount of taxable paid-up capital of an airline corporation that shall be deemed to have been used in the fiscal year in a province or territory of Canada outside Ontario is an amount that is equal to one-quarter of the aggregate of,

- (a) that proportion of its taxable paid-up capital for the fiscal year that the capital cost of all fixed assets of the corporation, except aircraft, in that province or territory of Canada at the end of the fiscal year is of the capital cost of all its fixed assets, except aircraft, in Canada at the end of the fiscal year; and

- (b) that proportion of its taxable paid-up capital that three times the number of revenue plane miles flown by its aircraft in that province or territory of Canada during the fiscal year is of the total number of revenue plane miles flown by its aircraft in Canada during the fiscal year.

(16) For the purposes of subsection 15, the provisions of *Idem* subsections 28 and 29 of section 5 apply *mutatis mutandis*. R.S.O. 1960, c. 73, s. 5 (4-15).

(17) In the case of a corporation to which subsection 36, 37 or 38 of section 5 applies, the paid-up capital thereof shall, notwithstanding section 70, be deemed to be either, Paid-up capital of foreign corporations

- (a) the amount of which its taxable income determined for the purposes of this Act would be 8 per cent; or
- (b) the amount that equals the difference between,
- (i) the amount of the total assets of the corporation in Canada, and
 - (ii) the amount of the indebtedness of the corporation relating to its permanent establishments in Canada but excluding therefrom all amounts that are advanced or loaned to its permanent establishments in Canada by the corporation itself or by any other corporation, and all other indebtedness that is represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property in Canada or any of it is subject,

whichever is greater and, in such case, this section shall apply as though,

- (c) the corporation had no permanent establishment outside Canada;
- (d) the paid-up capital as so determined were the total paid-up capital of the corporation; and
- (e) the taxable capital of the corporation as determined for the purposes of this Act were allocated among the provinces and territories of Canada in accordance with such of those subsections referred to in clause c of subsection 36 of section 5 as are applicable, on the assumption that the permanent establishments of the corporation in the provinces and territories of Canada are its only permanent establishments and that the amounts and proportions referred to in such of those subsections as are applicable relate exclusively to the activity of the corporation at those permanent establishments. 1968-69, c. 19, s. 4.

Idem (18) Except as provided in section 59, every corporation referred to in clauses *b, c, d, e, f, g, h, i, k, l, p* and *s* of subsection 42 of section 5 shall, in lieu of the taxes payable under subsections 1 and 2, pay a tax of \$5.

Idem (19) Every corporation referred to in clauses *j, m* and *n* of subsection 42 of section 5 and subsection 1 of section 43 shall, in lieu of the tax payable under subsection 1, pay a tax of \$50. 1968-69, c. 18, s. 1 (5).

Apportionment of capital and other special tax

7. Where a corporation has a fiscal year of less than 365 days, the tax otherwise payable by it under section 6, 8, 9, 10, 11, or 12 shall be in the proportion thereof that the number of days of such fiscal year bears to 365, except that this section does not apply,

- (a) to any corporation to which subsection 2, 18 or 19 of section 6 applies; or
- (b) to any corporation the fiscal year of which does not end on the same date each year, but that has been accepted for purposes of assessment under this Act. 1970, c. 69, s. 3.

Banks, taxes on paid-up capital

8.—(1) Every bank shall for every fiscal year thereof pay,

- (a) a tax of one-fifth of 1 per cent on the paid-up capital stock thereof and one-tenth of 1 per cent on the reserve fund and undivided profits thereof;
- (b) an additional tax of \$3,000 for the principal office in Ontario and \$200 for each additional office, branch or agency in Ontario, but in the case of such additional offices, branches and agencies that were open during the fiscal year fewer than 250 days, one tax of \$200 shall apply for each 250 days or fraction thereof that such offices, branches and agencies were open. R.S.O. 1960, c. 73, s. 7 (1).

Reduction in certain cases

(2) Where the head office of a bank is outside Ontario and where it has not more than five offices, branches and agencies in Ontario, the Minister, having regard to the amount of business transacted in Ontario, may reduce the amount of tax imposed by clause *a* of subsection 1, but such tax shall in no case be less than one-tenth of 1 per cent calculated on one-half of the paid-up capital stock. R.S.O. 1960, c. 73, s. 7 (2); 1968, c. 20, s. 6.

Railways, mileage tax

9.—(1) Every corporation that operates or uses a railway shall for every fiscal year thereof pay a tax of \$60 per mile for one track, and, where the line consists of two or more tracks, of \$40 per mile for each additional track, operated or used in any municipality in Ontario, and of \$40 per mile for one track, and, where the line consists of two or more tracks, of \$20 per mile for each additional

track, in territory without municipal organization in Ontario, but a corporation that operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, does not exceed 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside Ontario, shall, in lieu of such tax, pay a tax of \$15 per mile for one track in Ontario and, where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario, and, where the railway or system does not exceed thirty miles in length between such terminals, a tax of \$10 per mile for one track in Ontario and, where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario.

(2) In addition to the tax imposed by subsection 1, every corporation that operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, exceeds 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside Ontario, shall for every fiscal year of the corporation pay a tax of \$25 per mile for one track in Ontario, and, where the line consists of two or more tracks, of \$20 per mile for each additional track in Ontario.

Additional
tax

(3) Switches, spurs and sidings shall not be included in the measurement of track for the purpose of this section. R.S.O. 1960, c. 73, s. 8.

Switches,
etc., not
to be
included

10. Every corporation that owns, operates or uses a line or a part of a line of telegraph in Ontario for gain, including every corporation that owns, operates or uses a railway, shall for every fiscal year of the corporation pay a tax of 1 per cent upon the total amount of money invested by the corporation in such line or part thereof and the plant and works connected therewith; provided that a corporation that owns and a corporation that operates and uses any such line or part thereof are liable jointly and severally for the payment of such tax, but the total amount payable in respect of such line or part thereof and the works and plant connected therewith shall not exceed the total amount of tax imposed under this section, notwithstanding that the line or part thereof is owned, operated or used by more than one corporation. R.S.O. 1960, c. 73, s. 9.

Telegraph
companies,
special tax

11. Every corporation that carries on the business of an express company over a railway in Ontario, including a corporation that owns, operates or uses a railway, shall for every fiscal year of the corporation pay a tax of \$800 for each 100 miles or fraction thereof up to but not exceeding a tax of \$10,000. R.S.O. 1960, c. 73, s. 10.

Express
companies,
special tax

Car
companies,
special tax

12. Every corporation, except a corporation that owns, operates or uses a railway, that transacts in Ontario the business of operating, leasing or hiring sleeping or parlour or dining cars run upon or used upon any railway in Ontario, shall, for every fiscal year of the corporation, pay a tax of 1 per cent calculated upon the money invested in such cars in use in Ontario. R.S.O. 1960, c. 73, s. 11.

Insurance
companies

13.—(1) Every insurance corporation shall pay a tax of 2 per cent calculated on the gross premiums that become payable to the corporation or its agent or agents during the fiscal year in respect of business transacted in Ontario, other than premiums in respect of re-insurance ceded to the corporation by other insurance corporations and considerations for annuities, after deducting from such premiums,

- (a) cash value of dividends credited to policyholders;
- (b) premiums returned. 1965, c. 22, s. 3.

Premiums
in respect
of business
transacted
in Ontario

(2) In determining the amount of tax payable under subsection 1,

- (a) every life insurance premium that becomes payable at the time the person insured is a resident of Ontario; and
- (b) every other premium that by the terms of the policy or renewal thereof becomes payable in respect of insurance of a person resident or property situate in Ontario at the time such premium becomes payable whether or not,
 - (i) such premium is earned wholly or partly in Ontario,
 - (ii) the business in respect of the policy is transacted wholly or partly in Ontario, or
 - (iii) the payment of such premium is made wholly or partly in Ontario,

shall be deemed to be a premium payable in respect of business transacted in Ontario. R.S.O. 1960, c. 73, s. 13 (2).

Exemption

(3) The tax imposed by subsection 1 is not payable in respect of premiums payable under a contract of marine insurance or by,

- (a) mutual insurance corporations insuring agricultural and other non-hazardous risks on the premium note plan, the sole business of which is carried on in Ontario;
- (b) fraternal societies and mutual benefit societies as defined in *The Insurance Act*; or
- (c) pension fund and employees' mutual benefit societies incorporated under or subject to *The Corporations Act*. 1968-69, c. 19, s. 6.

R.S.O. 1970,
c. 224

R.S.O. 1970,
c. 89

(4) In this section, "marine insurance" means insurance against marine losses, that is to say, the losses incident to marine adventure, and may by the express terms of a contract or by usage of trade extend so as to protect the insured against losses on inland waters or by land or air that are incidental to a sea voyage. Marine insurance

(5) Where it is established to the satisfaction of the Lieutenant Governor in Council that any jurisdiction discriminates unfairly by imposing taxes, fees and other monetary obligations on any insurance corporation or any particular class of insurance corporations organized under the laws of Canada or of Ontario and having their principal offices in Ontario that in the aggregate are in excess of comparable taxes, fees and monetary obligations imposed on any similar corporation or class of corporations organized under the laws of such jurisdiction, the Lieutenant Governor in Council may direct that any corporation or any class of corporations organized under the laws of such jurisdiction and that transact business in Ontario shall pay, in addition to the tax otherwise imposed by this section, a tax not exceeding the equivalent of such excess, and such additional tax is recoverable in the same manner as any other tax imposed by this Act. Unfair discrimination

(6) For the purposes of this Act, the fiscal year of every insurance corporation shall be deemed to end on the 31st day of December. Fiscal year R.S.O. 1960, c. 73, s. 13 (4-6).

PART III

COMPUTATION OF TAXABLE INCOME

DIVISION A—TAXABLE INCOME

14. The taxable income of a corporation for a fiscal year is its income for that year minus the deductions permitted by Division C. Taxable income R.S.O. 1960, c. 73, s. 14.

DIVISION B—COMPUTATION OF INCOME

General Rules

15. The income of a corporation for a fiscal year for the purposes of this Part is its income for the fiscal year from all sources inside or outside Ontario and, without restricting the generality of the foregoing, includes income for the fiscal year from all businesses and property. World income R.S.O. 1960, c. 73, s. 15.

16. Subject to the other provisions of this Part, income for a fiscal year from the business or property of a corporation is the profit therefrom for the fiscal year. Income from business or property R.S.O. 1960, c. 73, s. 16.

Amounts Included in Computing Income

Amounts
included in
computing
income,

17. Without restricting the generality of section 15, there shall be included in computing the income of a corporation for a fiscal year,

- | | |
|---|--|
| dividends | (a) amounts received in the fiscal year as, on account or in lieu of payment of, or in satisfaction of, dividends; |
| annuity payments | (b) amounts received in the fiscal year as annuity payments; |
| interest | (c) amounts received in the fiscal year or receivable in the fiscal year, depending upon the method regularly followed by the corporation in computing its profit, as interest or on account or in lieu of payment of, or in satisfaction of, interest; |
| income from partnership or syndicate | (d) the income of a corporation from a partnership or syndicate for the fiscal year, whether or not it has withdrawn such income during the fiscal year; |
| previous reserve for bad debts | (e) the amount deducted as a reserve for doubtful debts in computing the income of a corporation for the immediately preceding fiscal year; |
| insurance proceeds expended | (f) such part of an amount payable to the corporation under a policy of insurance in respect of damage to property that is depreciable property of the corporation within the meaning of section 32 as has been expended by the corporation, <ul style="list-style-type: none"> (i) within the fiscal year, and (ii) within a reasonable time after the damage, on repairing the damage; |
| previous reserve for quadrennial survey, etc. | (g) the amount deducted as a reserve under clause 1 of subsection 1 of section 23 in computing the corporation's income for the immediately preceding year; |
| bad debts recovered | (h) amounts received in the fiscal year on account of debts in respect of which a deduction for bad debts had been made in computing the income of the corporation for a previous fiscal year, whether or not the corporation was carrying on the same business in the fiscal year during which such deduction was made; |
| payments based on production or use | (i) amounts received by the corporation in the fiscal year that were dependent upon use of or production from property, whether or not they were instalments of the sale price of the property, but instalments of the sale price of agricultural land shall not be included by virtue of this clause; |
| employees profit sharing plan | (j) amounts received by the corporation in the fiscal year under an employees profit sharing plan established for |

the benefit of the employees of the corporation or of a corporation with which the first-mentioned corporation does not deal at arm's length; R.S.O. 1960, c. 73, s. 17; 1961-62, c. 23, s. 5, *part*; 1964, c. 11, s. 2 (1); 1968, c. 20, s. 7.

- (k) amounts received by a corporation in the fiscal year under a deferred profit sharing plan as provided by section 53; 1961-62, c. 23, s. 5, *part*. profit sharing plan
- (l) amounts that the corporation became entitled to receive in the fiscal year upon the disposition of an interest in a life insurance policy, to the extent provided by section 54; insurance policy proceeds
- (m) amounts allocated to the corporation in the fiscal year by an insurer as provided by section 54; 1970, c. 69, s. 4. allocations under insurance policies
- (n) amounts received by the corporation in the fiscal year in consideration for the disposition of a right, licence or privilege to explore for, drill for or take petroleum or natural gas in Canada, as provided by subsection 12 or 14 of section 58; 1962-63, c. 26, s. 2. proceeds from disposition of rights, etc.
- (o) an amount that is included in computing the income of the corporation under Part I of the *Income Tax Act* (Canada) pursuant to section 138A of that Act; 1964, c. 11, s. 2 (2). dividend stripping R.S.C. 1952, c. 148
- (p) amounts received by the corporation in the fiscal year as legal costs awarded to it by a court on an appeal in relation to an assessment of tax, interest or penalties under this Act, or the *Income Tax Act* (Canada), if with respect to that assessment an amount has been deducted or may be deductible under clause *w* of subsection 1 of section 23 in computing its income; and legal costs
- (q) superannuation or pension benefits. 1965, c. 22, s. 4. superannuation or pension benefits

18.—(1) Where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatsoever is that a person confers a benefit on a corporation, that person shall be deemed to have made a payment to the corporation equal to the amount of the benefit conferred notwithstanding the form or legal effect of the transactions or that one or more other persons were also parties thereto; and whether or not there was an intention to avoid or evade taxes under this Act, the payment shall be included in computing the income of the corporation. Indirect payment or transfer

(2) Where it is established that a sale, exchange or other transaction was entered into by a corporation and other persons dealing at arm's length, *bona fide* and not pursuant to, or as part of, any other transaction and not to effect payment in whole or in Arm's length

part of an existing or future obligation, no party thereto shall be regarded, for the purpose of this section and for the purpose of subsection 5 of section 24, as having conferred a benefit on a corporation who was party thereto. 1968, c. 20, s. 8.

Income and
capital
combined

19.—(1) Where a payment under a contract or other arrangement can reasonably be regarded as being in part a payment of interest or other payment in the nature of income and in part a payment in the nature of capital, the part of the payment that can reasonably be regarded as a payment of interest or other payment in the nature of income shall, irrespective of when the contract or arrangement was made or the form of legal effect thereof, be included in computing the income of the corporation receiving it. R.S.O. 1960, c. 73, s. 18.

Obligation
issued at a
discount

R.S.C. 1952,
c. 148

(2) Where, in the case of a bond, debenture, bill, note, mortgage, hypothec or similar obligation issued after December 20, 1960, by a person exempt from tax under section 62 of the *Income Tax Act* (Canada), a non-resident person not carrying on business in Canada, or a government, municipality or municipal or other public body performing a function of government,

- (a) the obligation was issued for an amount that is less than the principal amount thereof;
- (b) the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on,
 - (i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or
 - (ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

is less than 5 per cent; and

- (c) the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued, which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest such annual rate obtainable conditional upon the exercise of any such right, exceeds the annual rate determined under clause *b* by more than one-third thereof,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued shall be

included in computing the income of a corporation for the fiscal year in which it became the owner of the obligation if it is the first owner thereof that is a corporation that has a permanent establishment in Canada and if it is not a corporation that is exempt from tax under subsection 42 of section 5. 1961-62, c. 23, s. 6, *part*; 1970, c. 69, s. 5 (1).

(3) In subsection 2, "principal amount", in relation to any obligation, means the amount that, under the terms of the obligation or any agreement relating thereto, is the maximum amount or maximum aggregate amount, as the case may be, payable on account of the obligation by the issuer thereof, otherwise than as or on account of interest or as or on account of any premium payable by the issuer conditional upon the exercise by the issuer of a right to redeem the obligation before the maturity thereof. Interpretation

(4) Subsection 1 does not apply in any case where subsection 2 Application applies. 1961-62, c. 23, s. 6, *part*.

(5) Subsection 1 does not apply to any amount received by a Idem corporation in a fiscal year,

- (a) as an annuity payment;
- (b) as a refund of premiums or contributions paid by the holder of a life annuity contract, as defined by the regulations, upon the death of such holder; or
- (c) in satisfaction of the rights of the corporation under a life annuity contract, as defined by regulation, that was entered into before the 14th day of June, 1963, except to the extent that the amount so received exceeds the aggregate of,
 - (i) the value of its rights under the contract on the second anniversary date of the contract to occur after the 22nd day of October, 1968, and
 - (ii) the aggregate of premiums paid by the corporation under the contract after the said second anniversary date. 1964, c. 11, s. 3; 1970, c. 69, s. 5 (2).

20.—(1) Where, in a fiscal year,

- (a) a payment has been made by a corporation to a corporation that is a shareholder therein otherwise than pursuant to a *bona fide* business transaction;
- (b) funds or property of a corporation have been appropriated in any manner whatsoever to or for the benefit of a corporation that is a shareholder therein; or
- (c) a benefit or advantage has been conferred by a corporation to a corporation that is a shareholder therein,

Appropriation of property to shareholders

otherwise than,

- (i) on the reduction of its capital, the redemption of its shares or the winding up, discontinuance or reorganization of its business,
- (ii) by payment of a stock dividend, or
- (iii) by conferring on all holders of common shares in the capital of the corporation a right to buy additional common shares therein,

the amount or value thereof shall be included in computing the income of the corporation that is a shareholder therein for the fiscal year.

Loan to
shareholder

(2) Where a corporation has in a fiscal year made a loan to a corporation that is a shareholder therein, the amount thereof shall be deemed to have been received by the corporation that is a shareholder therein as a dividend in the fiscal year unless,

- (a) the loan was made in the ordinary course of its business and the lending of money was part of its ordinary business and *bona fide* arrangements were made at the time the loan was made for repayment thereof within a reasonable time; or
- (b) the loan was repaid within one year from the end of the fiscal year of the lending corporation in which it was made and it is established by subsequent events or otherwise that the repayment was not made as a part of a series of loans and repayments.

Interest on
income
bonds

(3) An annual or other periodic amount paid by a corporation to another corporation in respect of an income bond or income debenture shall be deemed to have been received by the receiving corporation as a dividend unless the corporation paying it is entitled to deduct the amount so paid in computing its income.

Application

(4) This section is applicable in computing the income of a corporation that is a shareholder of the paying corporation for the purposes of this Part, whether or not the paying corporation had a permanent establishment in Ontario. R.S.O. 1960, c. 73, s. 19.

Certain
reserves
included in
computing
income—
banks

21. In computing the income for a fiscal year of a bank, there shall be included the amount by which the aggregate of the amounts, that at the end of the fiscal year are set aside or reserved by way of write-down of the value of assets or appropriation to contingency reserves or contingent accounts for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, is, in the opinion of the Minister, having regard to all of the circumstances, in excess of the reasonable requirements of the bank. R.S.O. 1960, c. 73, s. 20; 1968, c. 20, s. 9.

Amounts Not Included in Computing Income

22. In computing the income of a corporation for a fiscal year, there shall not be included,

- (a) an amount received under a war savings certificate issued by His Majesty in right of Canada or under a similar savings certificate issued by His Majesty in right of Newfoundland before April 1, 1949; Amounts not included in computing income: war savings certificates
- (b) the income for the fiscal year of a non-resident corporation earned in Canada from the operation of a ship or aircraft owned or operated by such corporation, if the country where that corporation resides or maintains its chief place of business grants substantially similar relief for the fiscal year to a corporation that resides or has its chief place of business in Canada; ship or aircraft of non-resident corporation
- (c) an amount received as a result of prospecting that section 57 provides is not to be included; prospecting
- (d) an amount paid to a corporation on account of a development grant under the *Area Development Incentives Act* (Canada) or the *Industrial Research and Development Incentives Act* (Canada). R.S.O. 1960, c. 73, s. 21; 1966, c. 30, s. 2; 1968, c. 20, s. 10. federal development grants 1965, c. 12 (Can.) 1966-67, c. 82 (Can.)

Deductions Allowed in Computing Income

23.—(1) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there may be deducted in computing the income of a corporation for a fiscal year,

- (a) an amount paid in the fiscal year or payable in respect of the fiscal year, depending upon the method regularly followed by the corporation in computing its income, pursuant to a legal obligation to pay interest on, interest
 - (i) borrowed money used for the purpose of earning income from a business or property, other than borrowed money used to acquire property the income from which would be exempt or to acquire an interest in a life insurance policy,
 - (ii) an amount payable for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, other than property the income from which would be exempt or property that is an interest in a life insurance policy, or
 - (iii) subject to the approval of the Minister, an amount paid to the corporation under,
 - (A) an *Appropriation Act* (Canada) for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry, or

(B) the *Northern Mineral Exploration Assistance Regulations* made under an *Appropriation Act* (Canada),

or a reasonable amount in respect thereof, whichever is the lesser; R.S.O. 1960, c. 73, s. 22 (1), cl. (a); 1968, c. 20, s. 11 (1); 1970, c. 69, s. 6 (1).

- | | |
|---|---|
| share transfer and other fees | (b) an amount payable in the fiscal year as a fee for services rendered by a person as a registrar of or agent for the transfer of shares of the capital stock of the corporation or as an agent for the remittance to shareholders of the corporation of dividends declared by it; |
| idem | (c) an amount payable in the fiscal year as a fee to a stock exchange for the listing of shares of the capital stock of the corporation; |
| idem | (d) an expense incurred in the fiscal year in the course of printing and issuing a financial report to shareholders of the corporation or to any other person entitled by law to receive such report; R.S.O. 1960, c. 73, s. 22 (1), cls. (b-d). |
| certification fee paid to bank 1966-67, cc. 87, 93 (Can.) | (e) an amount payable by the corporation in the fiscal year as a fee to a bank to which the <i>Bank Act</i> (Canada) or the <i>Quebec Savings Banks Act</i> (Canada) applies for the certification of a non-interest-bearing post-dated bill drawn by the corporation on the bank and payable not more than ninety days from the date of the certification; |
| sale of bill | (f) where a bill described in clause e that was drawn by the corporation was sold by the corporation in the fiscal year, the amount, if any, by which the principal amount of the bill exceeds the consideration paid by the purchaser to the corporation for the bill so sold; |
| repayment of loan by shareholder | (g) such part of any loan repaid by the corporation in the fiscal year as was required by the operation of subsection 2 of section 20, to be included in computing its income for a previous fiscal year, to the extent that the amount of the loan deemed to have been received by the corporation as a dividend was not deductible under section 38 from the income of the corporation for the year in which the dividend was deemed to have been so received, if it is established by subsequent events or otherwise that the repayment was not made as a part of a series of loans and repayments; 1961-62, c. 23, s. 7 (1), <i>part.</i> |
| compound interest | (h) an amount paid in the fiscal year pursuant to a legal obligation to pay interest on an amount that would be deductible under clause a if it were paid in the fiscal year or payable in respect of the fiscal year; |

- (i) an expense incurred in the fiscal year,
- (i) in the course of issuing or selling shares of the capital stock of the corporation, or
 - (ii) in the course of borrowing money used by the corporation for the purpose of earning income from a business or property, other than money used by the corporation for the purpose of acquiring property the income from which would be exempt,

expense of
issuing
shares or
borrowing
money

but not including any amount in respect of,

- (iii) a commission or bonus paid or payable to a person to whom the shares would be issued or sold or from whom the money was borrowed or for or on account of services rendered by a person as a salesman, agent or dealer in securities in the course of issuing or selling the shares or borrowing the money, or
 - (iv) an amount paid or payable as or on account of the principal amount of the indebtedness incurred in the course of borrowing the money, or as or on account of interest;
- (j) such part of a payment,
- (i) repaying borrowed money used for the purpose of earning income from a business or property, other than borrowed money used to acquire property the income from which would be exempt, or
 - (ii) for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, other than property the income from which would be exempt,

idem

made by the corporation in the fiscal year as is by section 19 required to be included in computing the income of the corporation receiving it;

- (k) a reasonable amount as a reserve for,
- (i) doubtful debts that have been included in computing the income of the corporation for that fiscal year or a previous fiscal year, and
 - (ii) doubtful debts arising from loans made in the ordinary course of business by a corporation part of the ordinary business of which was the lending of money; R.S.O. 1960, c. 73, s. 22 (1), cls. (e-h).

reserve for
doubtful
debts

- (l) such amount as may be prescribed as a reserve for expenses to be incurred by the corporation by reason of quadrennial or other special surveys required under the *Canada Shipping Act* (Canada), or the regulations thereunder or under the rules of any society or association for the classification and registry of shipping

reserve for
quadrennial
survey

R.S.C. 1952,
c. 29

R.S.C. 1952,
c. 29

approved by the Minister of Transport of Canada for the purpose of the *Canada Shipping Act* (Canada); 1968, c. 20, s. 11 (2).

bad debts

- (m) the aggregate of debts owing to the corporation,
 - (i) that it has established to have become bad debts in the fiscal year, and
 - (ii) that it has included, except in the case of debts arising from loans made in the ordinary course of business by a corporation part of the ordinary business of which was the lending of money, in computing its income for that fiscal year or a previous fiscal year; R.S.O. 1960, c. 73, s. 22 (1), cl. (i).

employer's
contribution
to pension
funds

- (n) an amount paid by the corporation in the fiscal year or within 120 days from the end of the fiscal year to or under a registered pension fund or plan in respect of services rendered by employees of the corporation in the fiscal year, subject however as follows:
 - (i) in any case where the amount so paid is the aggregate of amounts, each of which is identifiable as a specified amount in respect of an individual employee of the corporation, the amount deductible under this clause in respect of any one such individual employee is the lesser of the amount so specified in respect of that employee or \$1,500, and
 - (ii) in any other case, the amount deductible under this clause is the lesser of the amount so paid or an amount determined in the prescribed manner, not exceeding \$1,500 multiplied by the number of employees of the corporation in respect of whom the amount so paid by the corporation was paid by it,

plus such amount as may be deducted as a special contribution under section 50; R.S.O. 1960, c. 73, s. 22 (1), cl. (j); 1965, c. 22, s. 5 (1).

Idem

- (o) where a registered pension fund or plan contains a provision under which the corporation may provide superannuation or pension benefits for an employee or former employee of the corporation by making a lump sum payment to or under the fund or plan in the fiscal year in which the employee or former employee,
 - (i) becomes eligible to retire,
 - (ii) retires or otherwise ceases to be employed by the corporation,
 - (iii) reaches an age at which the superannuation or pension benefits so provided for become payable or commence to be payable to him,

an amount paid by the corporation in the fiscal year or within sixty days from the end of the fiscal year pursuant thereto as the lump sum in respect of an employee or former employee who, in the fiscal year, became eligible to retire, retired or otherwise ceased to be employed by the corporation or reached the age referred to in subclause iii, except to the extent that it is deductible under clause *n*; R.S.O. 1960, c. 73, s. 22 (1), cl. (k).

- (p) such amount in respect of expenditures on scientific research as is permitted by section 46 or by section 47; 1962-63, c. 26, s. 3 (1). scientific research
- (q) the capital element of each annuity payment, other than a superannuation or pension benefit or a payment under a registered retirement savings plan, included in computing income for the fiscal year, that is to say, an amount equal to that part of the payment determined in the prescribed manner to have been a return of capital; R.S.O. 1960, c. 73, s. 22 (1), cl. (m). capital element of annuities
- (r) such amounts in respect of payments made by a corporation pursuant to allocation in proportion to patronage as are permitted by section 49; R.S.O. 1960, c. 73, s. 22 (1), cl. (o). patronage dividend
- (s) such amount in respect of taxes on income for the fiscal year from mining operations as is permitted by the regulations; 1962-63, c. 26, s. 3 (2). mining taxes
- (t) an amount paid by a corporation to a trustee in trust for employees of such corporation or of a corporation with which such corporation does not deal at arm's length under an employees profit sharing plan as permitted by section 51; R.S.O. 1960, c. 73, s. 22 (1), cl. (q). contributions under profit sharing plan
- (u) an amount paid by a corporation to a trustee under a registered supplementary unemployment benefit plan as permitted by section 52; R.S.O. 1960, c. 73, s. 22 (1), cl. (r); 1968, c. 20, s. 11 (3). contributions under supplementary unemployment benefit plan
- (v) an amount paid by the corporation to a trustee under a deferred profit sharing plan as permitted by subsection 4 of section 53; 1961-62, c. 23, s. 7 (1), *part*. employer's contribution under deferred profit sharing plan
- (w) amounts paid by the corporation in the fiscal year in respect of fees or expenses incurred in preparing, instituting or prosecuting an objection to, or an appeal in relation to, an assessment of tax, interest or penalties under this Act or the *Income Tax Act* (Canada); 1965, c. 22, s. 5 (2). expenses of objection or appeal
- (x) the amount payable by the corporation for the fiscal year as a contribution under the *Canada Pension Plan* or under a provincial pension plan as defined in section 3 of the *Canada Pension Plan*; Canada Pension Plan contributions 1964-65, c. 51 (Can.)

R.S.C. 1952,
c. 148

cancellation
of lease

- (y) an amount, which would not otherwise be deductible, paid by the corporation in the fiscal year to a person with whom it was dealing at arm's length for the cancellation of a lease of property of the corporation leased by it to that person;

landscaping
of grounds

- (z) an amount paid by the corporation in the fiscal year for the landscaping of grounds around a building or other structure of the corporation that is used by it primarily for the purpose of gaining or producing income therefrom or from a business;

expenses of
representation

- (za) an amount paid by the corporation in the fiscal year as or on account of expenses incurred by it in making any representation relating to a business carried on by it,
- (i) to the government of a country, province or state or to a municipal or public body performing a function of government in Canada, or
 - (ii) to an agency of a government or of a municipal or public body referred to in subclause i that has authority to make rules, regulations or by-laws relating to the business carried on by the corporation,

including any representation for the purpose of obtaining a licence, permit, franchise or trade mark relating to the business carried on by the corporation;

investigation
of site

- (zb) an amount paid by the corporation in the fiscal year for investigating the suitability of a site for a building or other structure planned by the corporation for use in connection with a business carried on by it. 1966, c. 30, s. 3 (1).

Deduction
required in
computing
income:

- (2) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there shall be deducted in computing the income of a corporation for a fiscal year,

capital cost
of property

- (a) such part of the capital cost to the corporation of property, or such amount in respect of the capital cost to the corporation of property, if any, as is provided by the regulations;

allowance
for oil or gas
well, mine or
timber limit

- (b) such amount as an allowance in respect of an oil or gas well, mine or timber limit, if any, as is allowed to the corporation by the regulations.

Share-
holder's
allowance
from
corporation
operating
oil or gas
wells

- (3) In computing the income of a corporation from shares it holds in another corporation the income of which is from the operation of an oil or gas well or a mine, there may be deducted such amount, if any, as is allowed by the regulations.

(4) For greater certainty it is hereby declared that, in the case of a regulation made under clause *b* of subsection 2 allowing to a corporation an amount in respect of an oil or gas well or a mine, Allowance in respect of oil or gas wells, etc.

- (a) there may be allowed to the corporation by such regulation an amount in respect of any or all oil or gas wells or mines in which the corporation has any interest; and
- (b) notwithstanding any other provision contained in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined. R.S.O. 1960, c. 73, s. 22 (2-4).

(5) Where a deduction is allowed under clause *b* of subsection 2 in respect of a coal mine operated by a lessee, the lessor and the lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the proportions. R.S.O. 1960, c. 73, s. 22 (5); 1968, c. 20, s. 11 (4). Lessee's share of allowance

(6) For the purpose of clause *a* of subsection 1, where a corporation has borrowed money in consideration of its promise to pay a larger amount and to pay interest on the larger amount, Borrowed money

- (a) the larger amount shall be deemed to be the amount borrowed; and
- (b) where the amount actually borrowed has been used in whole or in part for the purpose of earning income from a business or property, the proportion of the larger amount that the amount actually so used is of the amount actually borrowed shall be deemed to be the amount so used. R.S.O. 1960, c. 73, s. 22 (6).

(7) For greater certainty, it is hereby declared that where a corporation has used borrowed money, Idem

- (a) to repay money previously borrowed; or
- (b) to pay an amount payable for property described in subclause ii of clause *a* of subsection 1 previously acquired,

the borrowed money shall, for the purposes of section 68 and for clause *a* or *j* of subsection 1, be deemed to have been used for the purpose for which the money previously borrowed was used or was deemed by this subsection to have been used, or to acquire the property in respect of which the said amount was so payable, as the case may be. 1970, c. 69, s. 6 (3).

(8) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there may be deducted, in computing the income for a fiscal year of a bank, such amount as is set aside or reserved for the fiscal year either by way of write-down of the value of assets or appropriation to any contingency reserve or contingent account Banks

for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, and is, in the opinion of the Minister, having regard to all the circumstances, not in excess of the reasonable requirements of the bank. R.S.O. 1960, c. 73, s. 22 (8); 1968, c. 20, s. 11 (5).

Utilities
service
connection

(9) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there may be deducted in computing the income from a business of a corporation for a fiscal year an amount paid by the corporation in the fiscal year to a person, other than a person with whom the corporation does not deal at arm's length, for the purpose of making a service connection to its place of business for the supply, by means of wires, pipes or conduits, of electricity, gas, telephone service, water or sewers supplied by such person, to the extent that the amount so paid was not paid,

- (a) to acquire property of the corporation; or
- (b) as consideration for the goods or services for the supply of which the service connection was undertaken or made.

One-half
fees paid
to invest-
ment
counsel

(10) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there may be deducted, in computing the income of a corporation from shares or securities for a fiscal year, one-half the fees paid by the corporation in the fiscal year to an investment counsel for advice as to the advisability of purchasing or selling specific shares or securities.

Interpre-
tation

(11) For the purpose of subsection 10, "investment counsel" means a person whose principal business is advising others as to the advisability of purchasing or selling specific shares or securities.

Special
corporation
tax

(12) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there may be deducted in computing the income from the business of a corporation for a fiscal year all corporation taxes payable by the corporation in the fiscal year.

Interpre-
tation

(13) In subsection 12 and in this subsection,

- (a) "corporation tax" means a tax imposed by the legislature of a province or by a municipality in the province that is declared by the regulations to be a tax on corporations, but does not include,
 - (i) a corporation income tax, or
 - (ii) any other tax declared by the regulations not to be a corporation tax;
- (b) "corporation income tax" means a tax imposed by the Parliament of Canada or by the legislature of a province or by a municipality in the province that is declared by the regulations to be a tax of general application on the profits of corporations.

(14) Where an amount that is owing to a corporation as or on account of the proceeds of disposition of depreciable property of the corporation of a prescribed class as determined for the purpose of section 32 is established by the corporation to have become a bad debt in a fiscal year, there may be deducted in computing its income for the fiscal year the lesser of,

Uncollect-
able portions
of proceeds
of disposition
of property

- (a) the amount so owing to the corporation; or
- (b) the amount, if any, by which the capital cost to the corporation of that property, as determined for the purpose of section 32, exceeds the aggregate of the amounts, if any, realized by the corporation on account of the proceeds of disposition. R.S.O. 1960, c. 73, s. 22 (9-14).

(15) Where depreciable property of a corporation has, in a fiscal year, been disposed of to a person with whom the corporation was dealing at arm's length, and the proceeds of disposition include an agreement for sale of or mortgage or hypothec on land that the corporation has, in a subsequent fiscal year, sold to a person with whom it was dealing at arm's length, there may be deducted, in computing the income of the corporation for the subsequent fiscal year, an amount equal to the lesser of,

Sale of
agreement
for sale
or mortgage
included in
proceeds of
disposition

- (a) the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothec outstanding at the time of the sale exceeds the consideration paid by the purchaser to the corporation for the agreement for sale, mortgage or hypothec; or
- (b) the amount determined under clause *a* less the amount, if any, by which the proceeds of disposition of the depreciable property exceed the capital cost to the corporation of that property. 1965, c. 22, s. 5 (3).

(16) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there may be deducted, in computing the income of a corporation for a fiscal year from a business that is farming, amounts paid by the corporation in the fiscal year for clearing land, levelling land or laying tile drainage for the purpose of carrying on the farming business.

Clearing
land,
levelling
land and
laying tile
drainage

(17) In lieu of making any deduction of an amount permitted by clause *za* of subsection 1 in computing its income for a fiscal year, a corporation may, if it so elects in prescribed manner, make a deduction of one-tenth of that amount in computing its income for that fiscal year and a like deduction in computing its income for each of the nine immediately following fiscal years. 1966, c. 30, s. 3 (2).

Application of
cl. *za*
to subs. 1

Deductions Not Allowed in Computing Income

Deductions
not allowed
in computing
income:
general
limitations

capital
outlay

limitation re
exempt
income

annual
value of
property

reserves, etc.

payments
on income
bonds

Limitation re
employer's
contribution
under
deferred profit
sharing plan

Limitation
re
employer's
contribution
under profit
sharing plan

manage-
ment fee

R.S.C. 1952,
c. 148

24.—(1) In computing income, no deduction shall be made in respect of,

- (a) an outlay or expense except to the extent that it was made or incurred by the corporation for the purpose of gaining or producing income from property or a business of the corporation;
- (b) an outlay, loss or replacement of capital, a payment on account of capital or an allowance in respect of depreciation, obsolescence or depletion except as expressly permitted by this Part;
- (c) an outlay or an expense to the extent that it may reasonably be regarded as having been made or incurred for the purpose of gaining or producing exempt income or in connection with property the income from which would be exempt;
- (d) the annual value of property except rent for property leased by the corporation for use in its business;
- (e) an amount transferred or credited to a reserve, contingent account or sinking fund except as expressly permitted by this Part;
- (f) an amount paid by a corporation other than a personal corporation as interest or otherwise to holders of its income bonds or income debentures unless the bonds or debentures have been issued or the income provisions thereof have been adopted since 1930,
 - (i) to afford relief to the debtor from financial difficulties, and
 - (ii) in place of or as an amendment to bonds or debentures that at the end of 1930 provided unconditionally for a fixed rate of interest;
- (g) an amount paid by a corporation to a trustee under a deferred profit sharing plan except as expressly permitted by section 53;
- (h) an amount paid by a corporation to a trustee under a profit sharing plan that is not,
 - (i) an employees profit sharing plan,
 - (ii) a deferred profit sharing plan, or
 - (iii) a registered pension fund or plan;
- (i) the amount of a management or administration fee or charge paid or credited, or deemed to be paid or credited, to a non-resident person to the extent that such amount is subjected to taxation under paragraph *a* of subsection 1 of section 106 of the *Income Tax Act* (Canada);

- (j) an amount paid by a corporation to a trustee under a supplementary unemployment benefit plan except as permitted by section 52. R.S.O. 1960, c. 73, s. 23 (1); 1961-62, c. 23, s. 8; 1964, c. 11, s. 4; 1968, c. 20, s. 12 (1). limitation on contribution

(2) In computing income, no deduction shall be made in respect of an outlay or expense otherwise deductible except to the extent that the outlay or expense was reasonable in the circumstances. R.S.O. 1960, c. 73, s. 23 (2). Unreasonable expenses

(3) In computing income, no deduction shall be made in respect of an otherwise deductible outlay or expense of a corporation for advertising space in an issue of a non-Canadian newspaper or periodical dated after the 31st day of December, 1965, for an advertisement directed primarily to a market in Canada if such outlay or expense is not deductible in computing its income under Part I of the *Income Tax Act* (Canada) pursuant to section 12A of that Act. 1966, c. 30, s. 4. Limitation re advertising expense
R.S.C. 1952, c. 148

(4) Clause *c* of subsection 1 does not apply in respect of an outlay or expense made or incurred by a corporation, at a time when more than 50 per cent of its property consisted of property leased to a subsidiary-controlled corporation subsidiary to it or shares in the capital stock of, bonds, debentures, mortgages or hypothecs of or bills or notes of a subsidiary-controlled corporation subsidiary to it, for the purpose of gaining or producing income in the form of dividends from any such corporation or in connection with property in the form of shares in the capital stock thereof. 1962-63, c. 26, s. 4. Application of subs. 1, cl. c

(5) In computing income, no deduction may be made in respect of a disbursement or expense made or incurred in respect of a transaction or operation that, if allowed, would unduly or artificially reduce the income. 1968, c. 20, s. 12 (2). Artificial transaction

25.—(1) Where the chief source of income of a corporation for a fiscal year is neither farming nor a combination of farming and some other source of income, its income for the fiscal year shall be deemed to be not less than its income from all sources other than farming minus the lesser of, Chief source of income

- (a) its loss from farming for the fiscal year; or
- (b) \$2,500 plus the lesser of,
 - (i) one-half of the amount by which its loss from farming for the fiscal year exceeds \$2,500, or
 - (ii) \$2,500. R.S.O. 1960, c. 73, s. 24 (1).

(2) For the purpose of this section, the Minister may determine that the chief source of income of a corporation for a fiscal year is neither farming nor a combination of farming and some other source of income. R.S.O. 1960, c. 73, s. 24 (2); 1968, c. 20, s. 13. Minister may determine

Interpre-
tation

(3) For the purpose of this section, a "loss from farming" is a loss from farming computed by applying the provisions of this Part respecting the computation of income from a business *mutatis mutandis*. R.S.O. 1960, c. 73, s. 24 (3).

Income
from a
source

(4) The income of a corporation for a fiscal year from a business, property or other source of income or from sources in a particular place means the income of the corporation computed in accordance with this Part on the assumption that it had during the fiscal year no income except from that source or those sources, and was allowed no deductions in computing its income for the fiscal year except such deductions as may reasonably be regarded as wholly applicable to that source or those sources and except such part of any other deductions as may reasonably be regarded as applicable to that source or those sources.

Idem

(5) Where the business carried on by a corporation or the duties performed by it was carried on or were performed, as the case may be, partly in one place and partly in another place, the income of the corporation for the fiscal year from the business carried on by it or the duties performed by it in a particular place means the income of the corporation computed in accordance with this Part on the assumption that it had during the fiscal year no income except from the part of the business that was carried on or the part of those duties that were performed in that particular place, and was allowed no deductions in computing its income for the fiscal year except such deductions as may reasonably be regarded as wholly applicable to that part of the business or those duties and such part of any other deductions as may reasonably be regarded as applicable to that part of the business or those duties. 1960-61, c. 14, s. 2.

Inventories

26.—(1) For the purpose of computing the income of a corporation from a business or a property, the property described in each inventory of the business shall be valued at its cost to the corporation or its fair market value, whichever is lower, unless,

- (a) all of the property described in all of the inventories of the business is valued at the cost thereof to the corporation; or
- (b) all of the property described in all of the inventories of the business is valued at the fair market value thereof.

Idem

(2) Notwithstanding subsection 1, for the purpose of computing income for a fiscal year, the property described in an inventory at the commencement of the year shall be valued at the same amount as the amount at which it was valued at the end of the immediately preceding fiscal year in computing the income of the corporation for that preceding fiscal year.

(3) For the purpose of this section and section 89, an inventory shall show quantities and nature of the properties that should be included therein in such manner and in sufficient detail that the property may be valued in accordance with this section. R.S.O. 1960, c. 73, s. 25.

Manner of
keeping
inventory

27.—(1) A payment or transfer of property made pursuant to the direction of or with the concurrence of a corporation to some person for the benefit of the corporation or as a benefit that the corporation desired to have conferred on such person shall be included in computing the income of the corporation to the extent that it would be if the payment or transfer had been made to the corporation. R.S.O. 1960, c. 73, s. 26 (1); 1961-62, c. 23, s. 9 (1).

Indirect
payments

(2) For the purposes of this Part, a payment or transfer in a fiscal year of property made to the corporation or to some person for the benefit of the corporation and other persons jointly or a profit made by the corporation and other persons jointly in a fiscal year shall be deemed to have been received by the corporation in the fiscal year to the extent of its interest therein notwithstanding that there was no distribution or division thereof in that fiscal year. R.S.O. 1960, c. 73, s. 26 (2); 1961-62, c. 23, s. 9 (2).

Undistrib-
uted
payments or
profits

28.—(1) Where a corporation carrying on business in Canada has purchased anything from a person with whom it was not dealing at arm's length at a price in excess of the fair market value, the fair market value thereof shall, for the purpose of computing the income of the corporation from the business, be deemed to have been paid or to be payable therefor.

Inadequate
considera-
tions

(2) Where a corporation carrying on business in Canada has sold anything to a person with whom it was not dealing at arm's length at a price less than the fair market value, the fair market value thereof shall, for the purpose of computing the income of the corporation from the business, be deemed to have been received or to be receivable therefor.

Idem

(3) Where a corporation carrying on business in Canada has paid or agreed to pay to a non-resident person with whom it was not dealing at arm's length as price, rental, royalty or other payment, for use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount greater than the amount, hereinafter in this subsection referred to as "the reasonable amount", that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the income of the corporation from the business, be deemed to have been the amount that was paid or is payable therefor.

Idem

Idem

(4) Where a non-resident person has paid or agreed to pay to a corporation carrying on business in Canada with which he was not dealing at arm's length as price, rental, royalty or other payment for use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount less than the amount, hereinafter in this subsection referred to as "the reasonable amount", that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the income of the corporation from the business, be deemed to have been the amount that was paid or is payable therefor.

Idem

(5) Where property of a corporation has been appropriated in any manner whatsoever to or for the benefit of a shareholder for no consideration or for a consideration below the fair market value and if the sale thereof at the fair market value would have increased the income of the corporation for the fiscal year, then for the purpose of determining the income of the corporation for the fiscal year it shall be deemed to have sold the property during the fiscal year and to have received therefor the fair market value thereof.

Idem

(6) Where property of a corporation has been appropriated in any manner whatsoever to or for the benefit of a shareholder on the winding up of the corporation and if the sale thereof at the fair market value immediately before the winding up would have increased the income of the corporation for the fiscal year, then for the purpose of determining the income of the corporation for the fiscal year it shall be deemed to have sold the property during the fiscal year and to have received therefor the fair market value thereof.

Idem

(7) Where a corporation has disposed of depreciable property as defined for the purpose of section 32 under such circumstances that subsection 3 of section 32 is applicable to determine, for the purpose of clause *a* of subsection 2 of section 23, the capital cost of the property to the person by whom the property was acquired, subsections 2, 5 and 6 of this section are not applicable in respect to the disposition. R.S.O. 1960, c. 73, s. 27.

Unpaid
amounts

29.—(1) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person with whom the corporation was not dealing at arm's length at the time the outlay or expense was incurred and at the end of the second fiscal year following the fiscal year in which the outlay or expense was incurred, is unpaid at the end of that second fiscal year, either,

- (a) the amount so unpaid shall be included in computing the income of the corporation for the third fiscal year following the fiscal year in which the outlay or expense was incurred; or

- (b) where the corporation and that person have filed an agreement in prescribed form on or before the day on or before which the corporation is required by section 73 to file its return of income for the third succeeding fiscal year, for the purposes of this Act the following rules apply:

1. The amount so unpaid shall be deemed to have been paid by the corporation and received by that person on the first day of the said third fiscal year.
2. That person shall be deemed to have made a loan to the corporation on the first day of the said third fiscal year in an amount equal to the amount deemed by rule 1 to have been paid by the corporation.

(2) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person with whom the corporation was not dealing at arm's length is unpaid at the time when the corporation is wound up, and the corporation is wound up before the end of the second fiscal year following the fiscal year in which the outlay or expense was incurred, the amount so unpaid shall be included in computing the income of the corporation for the fiscal year in which it is wound up. 1965, c. 22, s. 7. Idem

(3) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person as salary, wages or other remuneration in respect of an office or employment is unpaid at the end of the first fiscal year following the fiscal year in which the outlay or expense was incurred, Unpaid remuneration

- (a) the amount so unpaid shall be included in computing the corporation's income for the second fiscal year following the fiscal year in which the outlay or expense was incurred; or
- (b) where the corporation and that person have filed an agreement in prescribed form on or before the day on or before which the corporation is required by section 73 to file its return of income for the first fiscal year following the fiscal year in which the outlay or expense was incurred, for the purposes of this Act the following rules apply,
- (i) the amount so unpaid shall be deemed to have been paid by the corporation and received by that person on the first day of the said second fiscal year, and
 - (ii) that person shall be deemed to have made a loan to the corporation on the first day of the said second fiscal year in an amount equal to the amount so unpaid minus the amount, if any, deducted or

withheld therefrom by the corporation on account of that person's tax for the said second fiscal year.

Where
unpaid at
time
corporation
wound up

(4) Where an amount in respect of a deductible outlay or expense described in subsection 3 that was owing by a corporation is unpaid at the time when the corporation is wound up, and the corporation is wound up before the end of the first fiscal year following the fiscal year in which the outlay or expense was incurred, the amount so unpaid shall be included in computing the corporation's income for the fiscal year in which it is wound up.

Application

(5) Subsection 1 does not apply in any case where subsection 3 applies and subsection 2 does not apply in any case where subsection 4 applies.

Late filing

(6) Where, in respect of an amount described in subsection 1 or 3 that was owing by a corporation to a person, an agreement in prescribed form for the purposes of this section is filed after the day on or before which the agreement is required to be filed for purposes of clause *b* of subsection 1 or clause *b* of subsection 3, as the case may be, both clauses *a* and *b* of subsection 1 or clauses *a* and *b* of subsection 3, as the case may be, apply in respect to the said amount, except that clause *a* of subsection 1 or clause *a* of subsection 3, as the case may be, shall be read and construed as requiring 25 per cent only of the said amount to be included in computing the corporation's income. 1970, c. 69, s. 7.

Loans to
non-resident
persons

30.—(1) Where a corporation resident in Canada has loaned money to a non-resident person and the loan has remained outstanding for one year or longer without interest at a reasonable rate having been included in computing the income of the lending corporation, interest thereon, computed at 5 per cent per annum for the fiscal year or part of the fiscal year during which the loan was outstanding, shall, for the purpose of computing the income of the lending corporation, be deemed to have been received by the lending corporation on the last day of each fiscal year during all or part of which the loan has been outstanding.

Exception

(2) Subsection 1 does not apply if the loan was made to a subsidiary controlled corporation and it is established that the money that was loaned was used in the business of the subsidiary corporation for the purpose of gaining or producing income. R.S.O. 1960, c. 73, s. 29.

Interest on
bonds

31. Where, by virtue of an assignment or other transfer of a bond, debenture or similar security, other than an income bond or income debenture, the transferee has become entitled to interest in respect of a period commencing before the time of transfer and ending after that time that is not payable until after the time of transfer, an amount equal to that proportion of the interest that the number of days in the portion of the period that preceded the day of transfer is of the number of days in the whole period,

- (a) shall be included in computing the income of the transferor for the fiscal year in which the transfer was made; and
- (b) may be deducted in computing the income of the transferee for a fiscal year in the computation of which there has been included,
 - (i) the full amount of the interest under section 17, or
 - (ii) a portion of the interest under clause *a*. R.S.O. 1960, c. 73, s. 30.

32.—(1) Where depreciable property of a corporation of a prescribed class has, in a fiscal year, been disposed of and the proceeds of the disposition exceed the undepreciated capital cost to the corporation of depreciable property of that class immediately before the disposition, the lesser of,

Excess of
proceeds
over
unde-
preciated
capital costs

- (a) the amount of the excess; or
- (b) the amount that the excess would be if the property had been disposed of for the capital cost thereof to the corporation,

shall be included in computing the income of the corporation for the fiscal year.

(2) Where one or more amounts are by subsection 1 required to be included in computing the income of a corporation for a fiscal year in respect of the disposition of depreciable property of a prescribed class and the corporation has, during the fiscal year but following the dispositions, acquired further depreciable property of that class, notwithstanding subsection 1 and clause *f* of subsection 4, the following applies:

Determina-
tion of net
amount

1. If the aggregate of the amounts that would according to the terms of subsection 1 be included thereunder in computing the income of the corporation is equal to or exceeds the amount that would according to the terms of clause *f* of subsection 4 be the undepreciated capital cost to the corporation of depreciable property of that class at the end of the fiscal year before any deduction is made under clause *a* of subsection 2 of section 23 for that fiscal year,
 - (i) the amount to be included in computing the income of the corporation for the fiscal year under subsection 1 in respect of dispositions of depreciable property of that class is that aggregate minus the amount that would be that undepreciated capital cost, and
 - (ii) the undepreciated capital cost to the corporation of depreciable property of that class at the end of the fiscal year is nothing.

2. If the aggregate of the amounts that would according to the terms of subsection 1 be included thereunder in computing the income of the corporation is less than the amount that would according to the terms of clause *f* of subsection 4 be the undepreciated capital cost to the corporation of depreciable property of that class at the end of the fiscal year before any deduction is made under clause *a* of subsection 2 of section 23 for that fiscal year,
 - (i) no amounts shall be included in computing the income of the corporation for the fiscal year in respect of depreciable property of that class under subsection 1, and
 - (ii) the undepreciated capital cost to the corporation of depreciable property of that class at the end of the fiscal year before any deduction is made under clause *a* of subsection 2 of section 23 for the fiscal year is the amount that it would be according to the terms of clause *f* of subsection 4 minus that aggregate.

Depreciation

(3) Where depreciable property did, at any time after the commencement of a fiscal year ending in 1949, belong to a person, hereinafter in this subsection referred to as the "original owner", and has by one or more transactions between persons not dealing at arm's length become vested in a corporation, the following, notwithstanding section 28, applies for the purposes of this section and the regulations made pursuant to clause *a* of subsection 2 of section 23:

1. The capital cost of the property to the corporation shall be deemed to be the amount that was the capital cost of the property to the original owner.
2. Where the capital cost of the property to the original owner exceeds the actual capital cost of the property to the corporation, the excess shall be deemed to have been allowed to the corporation in respect of the property under the regulations made pursuant to clause *a* of subsection 2 of section 23 in computing income for fiscal years before the acquisition thereof by the corporation. R.S.O. 1960, c. 73, s. 31 (1-3).

Interpretation

(4) In this section and in the regulations made pursuant to clause *a* of subsection 2 of section 23,

- (a) "conversion", in respect of a vessel, means a conversion or major alteration in Canada by a corporation in accordance with plans approved in writing by the Minister of Industry of Canada for the purposes of the *Income Tax Act* (Canada) and by the Minister, and "conversion cost" means the cost of conversion as determined by the Minister;

R.S.C. 1952,
c. 148

- (b) "depreciable property" of a corporation as of any time in a fiscal year means property in respect of which the corporation has been allowed or is entitled to a deduction under the regulations made pursuant to clause *a* of subsection 2 of section 23 in computing income for that or a previous fiscal year;
- (c) "disposition of property" includes any transaction or event entitling a corporation to proceeds of disposition of property;
- (d) "proceeds of disposition" of property includes,
 - (i) the sale price of property that has been sold,
 - (ii) compensation for property damaged, destroyed, taken or injuriously affected, either lawfully or unlawfully, or under statutory authority or otherwise,
 - (iii) an amount payable under a policy of insurance in respect of loss or destruction of property,
 - (iv) an amount payable under a policy of insurance in respect of damage to property except to the extent that the amount has within a reasonable time after the damage been expended on repairing the damage, and
 - (v) an amount by which the liability of a corporation to a mortgagee is reduced as a result of foreclosure of its interest in property that is mortgaged or as a result of the sale of that property under a provision of the mortgage, plus any amount received by the corporation out of the proceeds of such sale;
- (e) "total depreciation" allowed to a corporation before any time for property of a prescribed class means the aggregate of all amounts allowed to the corporation in respect of property of that class under the regulations made pursuant to clause *a* of subsection 2 of section 23 in computing income for the fiscal years before that time;
- (f) "undepreciated capital cost" to a corporation of depreciable property of a prescribed class as of any time means the capital cost to the corporation of depreciable property of that class acquired before that time minus the aggregate of,
 - (i) the total depreciation allowed to the corporation for property of that class before that time,
 - (ii) for each disposition before that time of property of the corporation of that class, the least of,
 - (A) the proceeds of disposition thereof,
 - (B) the capital cost to the corporation thereof, or
 - (C) the undepreciated capital cost to the corporation of property of that class immediately

before the disposition, and

- (iii) each amount by which the undepreciated capital cost to the corporation of depreciable property of that class as of the end of a previous fiscal year was reduced by virtue of subsection 2;

R.S.C. 1952,
c. 29

- (g) "vessel" means a vessel as defined in the *Canada Shipping Act* (Canada). R.S.O. 1960, c. 73, s. 31 (4); 1967, c. 15, s. 3; 1968, c. 20, s. 14 (1).

Insurance
proceeds

(5) Where an amount payable under a policy of insurance in respect of loss or destruction of property of a prescribed class would otherwise be included in computing the income of a corporation for a fiscal year, hereinafter in this subsection referred to as "the initial fiscal year", by virtue of this section,

- (a) it shall, to the extent that it has been expended by the corporation,

- (i) in the fiscal year immediately following the initial fiscal year on acquiring property of the same class,
- (ii) in the fiscal year immediately following the initial fiscal year on acquiring, if the property destroyed was a building, a building of a prescribed class, or
- (iii) within the time certified by the Minister to be a reasonable time following the initial fiscal year, on acquiring, if the property destroyed was a vessel, a vessel of a prescribed class,

not be included in computing the income of the corporation for the initial fiscal year; and

- (b) it shall, to the extent that it has not been included in computing the income of the corporation for the initial fiscal year, be deemed to be proceeds of a disposition made,

- (i) in the case of a vessel, in the fiscal year in which it is in whole or in part expended in accordance with clause *a*, but only to the extent that it is so expended in that year and only if such year is within the time certified by the Minister under subclause iii of clause *a*, and
- (ii) in the case of any other property in the fiscal year immediately following the initial year,

of depreciable property of the corporation of the same class as the property so acquired. R.S.O. 1960, c. 73, s. 31 (5); 1968, c. 20, s. 14 (2).

Transferred
property

(6) Where depreciable property of a corporation that was included in a prescribed class, hereinafter in this subsection referred to as the "former class", has been transferred to another prescribed class, hereinafter in this subsection referred to as the "other class" for the purpose of clause *f* of subsection 4,

- (a) there shall be added to the capital cost to the corporation of depreciable property of the former class acquired before the transfer the greater of,
- (i) the amount, if any, by which the capital cost to the corporation of the transferred property exceeds the undepreciated capital cost to it of depreciable property of the former class immediately before the transfer, or
 - (ii) the aggregate of all amounts that would have been allowed to the corporation in respect of the transferred property, if it had been a prescribed class, at the rate that was allowed to it in respect of property of the former class under regulations made under clause *a* of subsection 2 of section 23 in computing income for fiscal years before the transfer; and
- (b) there shall be added to the total depreciation allowed to the corporation for property of the other class the greater of the amounts determined under subclauses i and ii of clause *a*. 1960-61, c. 14, s. 3, *part*.

(7) Where, in calculating the amount of a deduction allowed to a corporation under regulations made under clause *a* of subsection 2 of section 23 in respect of depreciable property of the corporation of a prescribed class, there has been added to the capital cost to it of depreciable property of that class the capital cost of depreciable property, hereinafter in this subsection referred to as "added property", of another prescribed class, for the purpose of this section and the regulations made under clause *a* of subsection 2 of section 23, the added property shall, if the Minister so directs with reference to any fiscal year for which the Minister may make any reassessment or additional assessment or assess tax, interest or penalties under Part V as the circumstances require, be deemed to have been property of the first-mentioned class and not of the other class at all times before the commencement of that fiscal year and, except to the extent that that property or any part thereof has been disposed of by the corporation before the commencement of that fiscal year, to have been transferred from the first-mentioned class to the other class at the commencement of that fiscal year. 1960-61, c. 14, s. 3, *part*; 1968, c. 20, s. 14 (3).

Mis-
classified
property

(8) For the purpose of this section and the regulations made pursuant to clause *a* of subsection 2 of section 23, the following applies:

Deprecia-
tion

1. Where a corporation, having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose, the corporation shall be deemed to have disposed of it at that later time at its fair market value at that time.

2. Where a corporation, having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, the corporation shall be deemed to have acquired it at that later time at its fair market value at that time.
3. Where a corporation has acquired property by gift, bequest or inheritance, the capital cost to the corporation shall be deemed to have been the fair market value thereof at the time the corporation so acquired it.
4. Where a corporation has given property away, the corporation shall be deemed to have disposed of it at the time of the gift at its fair market value at that time.
5. Where a property has, since it was acquired by a corporation, been regularly used in part for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business and in part for some other purpose, the corporation shall be deemed to have acquired for the purpose of gaining or producing income the proportion of the property that the use regularly made of the property for gaining or producing income is of the whole use regularly made of the property at a capital cost to the corporation equal to the same proportion of the capital cost to the corporation of the whole property, and, if the property has in such a case been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for gaining or producing income shall be deemed to be the same proportion of the proceeds of disposition of the whole property.
6. Where at any time after a corporation has acquired property there has been a change in the relation between the use regularly made by the corporation of the property for gaining or producing income and the use regularly made of the property for other purposes,
 - (i) if the use regularly made by the corporation of the property for the purpose of gaining or producing income has increased, the corporation shall be deemed to have acquired at that time depreciable property of that class at a capital cost equal to the proportion of the fair market value of the property as of that time that the amount of the increase in the use regularly made by the corporation of the property for that purpose is of the whole use regularly made of the property, and

- (ii) if the use regularly made of the property for the purpose of gaining or producing income has decreased, the corporation shall be deemed to have disposed at that time of depreciable property of that class and the proceeds of disposition shall be deemed to be an amount equal to the proportion of the fair market value of the property as of that time that the amount of the decrease in the use regularly made by the corporation of the property for that purpose is of the whole use regularly made of the property.
7. Where an amount can reasonably be regarded as being in part the consideration for disposition of depreciable property of a corporation of a prescribed class and as being in part consideration for something else, the part of the amount that can reasonably be regarded as being the consideration for such disposition shall be deemed to be the proceeds of disposition of depreciable property of that class irrespective of the form or legal effect of the contract or agreement, and the person to whom the depreciable property was disposed of shall be deemed to have acquired the property at a capital cost to him equal to the same part of that amount.
 8. Where a corporation has received or is entitled to receive a grant, subsidy or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, the capital cost of the property shall be deemed to be the capital cost thereof to the corporation minus the amount of the grant, subsidy or other assistance.
 9. Where depreciable property of a corporation has, in a fiscal year, been disposed of to a person with whom the corporation was dealing at arm's length, and the proceeds of disposition include an agreement for sale of or mortgage or hypothec on land that the corporation has, in the fiscal year, sold to a person with whom it was dealing at arm's length, in consideration for an amount less than the principal amount of the agreement for sale, mortgage or hypothec, there shall be deducted in computing the proceeds of disposition the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothec outstanding at the time of the sale exceeds the consideration paid by the purchaser to the corporation for the agreement for sale, mortgage or hypothec.
 10. Where a corporation has disposed of an interest in a partnership, an amount equal to the part of the consid-

eration for the disposition of the interest of the corporation in the partnership that can reasonably be regarded as being in relation to the interest of the corporation in the depreciable property of a class that was used in the business of the partnership shall be deemed to be proceeds of disposition of depreciable property of that class, and the person who acquired the interest of the corporation in the partnership shall be deemed to have acquired an interest in property at a capital cost equal to that amount. R.S.O. 1960, c. 73, s. 31 (6); 1965, c. 22, s. 8.

Interpre-
tation

(9) In paragraphs 1, 2, 5 and 6 of subsection 8, in the case of a non-resident corporation, "business" means a business wholly carried on in Canada or such part of a business as is wholly carried on in Canada.

Farming
and fishing

(10) Subsection 1 does not apply in determining the income of a corporation of a fiscal year from farming or fishing unless the corporation has elected to take a deduction for that or a previous fiscal year under the regulations made pursuant to clause *a* of subsection 2 of section 23 other than a regulation providing solely for an allowance for computing income from farming or fishing. R.S.O. 1960, c. 73, s. 31 (7, 8).

Application
of subs. 8,
par. 8,
1966-67,
c. 82 (Can.)
1965,
c. 12 (Can.)

(11) Paragraph 8 of subsection 8 does not apply in respect of a grant authorized to be paid under an *Appropriation Act* (Canada), the *Industrial Research and Development Incentives Act* (Canada) and the *Area Development Incentives Act* (Canada) and approved by the Minister. 1968-69, c. 19, s. 7.

Application
of cl. *z* of
subs. 1
of s. 22

(12) Where, in computing the income of a corporation for a fiscal year, an amount has been deducted under clause *za* of subsection 1 of section 23 or the taxpayer has elected under subsection 17 of section 23 to make a deduction in respect of an amount that would otherwise have been deductible under that clause, the amount shall, if it was a payment on account of the capital cost of depreciable property, be deemed to have been allowed to the corporation in respect of the property under regulations made under clause *a* of subsection 2 of section 23 in computing the income of the corporation,

(a) for the fiscal year; or

(b) for the fiscal year in which the property was acquired, whichever is the later. 1966, c. 30, s. 5, *part*.

Application
where
deduction
under
R.S.C. 1952,
c. 43

(13) Notwithstanding subsection 10, where a deduction has been made under the *Canadian Vessel Construction Assistance Act* (Canada) for any year, subsection 1 is applicable in respect of the prescribed class created by that Act or any other prescribed class to which the vessel may have been transferred.

(14) For the purpose of this section and regulations made under clause *a* of subsection 2 of section 23, a vessel in respect of which any conversion cost is incurred after the coming into force of this subsection shall, to the extent of the conversion cost, be deemed to be included in a separate prescribed class. 1968, c. 20, s. 14 (5), *part*.

Conversion
cost of
vessel
deemed
prescribed
class

(15) Where a vessel owned by a corporation on the 1st day of January, 1966, or constructed pursuant to a construction contract entered into by the taxpayer prior to 1966 and not completed by that date is disposed of by the corporation before 1974,

Subs. 1 not
applicable
in certain
cases

(a) subsection 1 does not apply to the proceeds of disposition,

(i) if an amount at least equal to the proceeds of disposition is used by the corporation before 1974 and during the fiscal year of the corporation in which the vessel is disposed of or within four months from the end of that fiscal year, under conditions satisfactory to the Minister, either for replacement or to incur any conversion cost with respect to a vessel owned by the corporation, or

(ii) if the Minister certifies that the corporation has, on satisfactory terms, deposited,

(A) on or before the day on which it is required to file a return of its income for the fiscal year in which the vessel was disposed of, or

(B) on or before such day subsequent to the day referred to in subclause A, as the Minister may specify in respect of the corporation,

an amount at least equal to the tax that would, but for this subsection, be payable by the corporation under this Act in respect of the proceeds of disposition, or satisfactory security therefor, as a guarantee that the proceeds of disposition will be used before 1974 for replacement; and

(b) the corporation may within the time prescribed for the filing of a return under this Act for the fiscal year in which the vessel was disposed of, elect to have the vessel constituted a prescribed class, or, if any conversion cost in respect of the vessel has been included in a separate prescribed class, have it transferred to that class, and, if it so elects, the vessel shall be deemed to have been so transferred immediately before the disposition thereof but this clause does not apply unless the proceeds of disposition of the vessel exceed the amount that would be the undepreciated capital cost of property of the class to which it would be so transferred. 1968, c. 20, s. 14 (5), *part*; 1970, c. 69, s. 8 (1).

Election in respect of proceeds of disposition of a vessel

(16) Where a vessel owned by a corporation is disposed of by it, it may, if subsection 15 does not apply to the proceeds of disposition or if the corporation does not make an election under clause *b* of subsection 15 within the prescribed time for the filing of a return under this Act for the fiscal year in which the vessel is disposed of, elect to have the proceeds that would be included in its income under subsection 1 treated as proceeds of disposition of property of another prescribed class that includes a vessel owned by it.

Prescribed class constituted by conversion cost deemed part of class constituted by vessel on disposition
R.S.C. 1952, c. 43

(17) Where a separate prescribed class has been constituted either under this Act or the *Canadian Vessel Construction Assistance Act* (Canada) by virtue of the conversion of a vessel owned by a corporation and the vessel is disposed of by it, if no election is made under clause *b* of subsection 15, the separate prescribed class constituted by virtue of the conversion shall be deemed to have been transferred to the class in which the vessel was included immediately before the disposition thereof.

Reassessments

(18) Notwithstanding any other provision of this Act, where a corporation,

- (a) expended an amount as described in subclause iii of clause *a* of subsection 5; or
- (b) made an election under clause *b* of subsection 15 with respect to a vessel and the proceeds of disposition of the vessel have been used before 1974 for replacement under conditions satisfactory to the Minister,

such reassessments of returns of income shall be made as are necessary to give effect to subsections 5 and 15. 1968, c. 20, s. 14 (5), *part*.

Disposition of deposits

(19) All or any part of a deposit made under subclause ii of clause *a* of subsection 15 may be paid out to or on behalf of any corporation which, under conditions satisfactory to the Minister and as a replacement for the vessel disposed of, acquires a vessel before 1974,

- (a) that was constructed in Canada and is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the British Commonwealth Merchant Shipping Agreement (signed at London on the 10th day of December, 1931) applies; and
- (b) in respect of the capital cost of which no allowance has been made to any other corporation under this Act or the *Canadian Vessel Construction Assistance Act* (Canada) or the *Income Tax Act* (Canada),

R.S.C. 1952, cc. 43, 148

or incurs any conversion cost with respect to a vessel owned by the corporation that is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the said British Commonwealth Merchant Shipping Agreement applies, but the ratio of the amount paid out to the amount of the deposit shall not exceed the ratio of the capital cost to it of the vessel or the conversion cost to it of the vessel, as the case may be, to the proceeds of disposition of the vessel disposed of; and any deposit or part of a deposit not so paid out before 1974 or not paid out pursuant to subsection 20 shall be paid to the Treasurer of Ontario.

(20) Notwithstanding any other provision of this section, ^{Idem} where a deposit was made by a corporation under subclause ii of clause *a* of subsection 15 and the proceeds of disposition in respect of which the deposit was made are not used by any corporation before 1974 under conditions satisfactory to the Minister as a replacement for the vessel disposed of,

- (a) to acquire a vessel described in clauses *a* and *b* of subsection 19; or
- (b) to incur any conversion cost with respect to a vessel owned by that corporation that is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the British Commonwealth Merchant Shipping Agreement applies,

the Minister may refund to the corporation the deposit, or the part thereof not paid out to the corporation under subsection 19, as the case may be, in which case there shall be added, in computing the income of the corporation for the fiscal year of the corporation in which the vessel was disposed of, that proportion of the amount that would have been included in computing its income by virtue of subsection 1 had the deposit not been made under subclause ii of clause *a* of subsection 15, that the portion of the proceeds of disposition not so used before 1974 as such a replacement is of the proceeds of disposition; and notwithstanding any other provision of this Act such reassessments of tax, interest or penalties shall be made as are necessary to give effect to this subsection. 1970, c. 69, s. 8 (3).

33.—(1) Where a corporation has at any time before the end of a fiscal year, whether before or after the commencement of this Act, transferred or assigned to a person with whom the corporation was not dealing at arm's length the right to an amount that would, if the right thereto had not been so transferred or assigned, be included in computing the income of the corporation for the fiscal year because the amount would have been received or receivable by the corporation in or in respect of the fiscal year, the amount shall be included in computing the income of the

Transfer of
rights to
income

corporation for the fiscal year unless the income is from property and the corporation has also transferred or assigned the property. R.S.O. 1960, c. 73, s. 35.

Idem

(2) Where a person has at any time before the end of a fiscal year, whether before or after the commencement of this Act, transferred or assigned to a corporation with whom the person was not dealing at arm's length the right to an amount that would, if the right thereto had not been so transferred or assigned, be included in computing the income of the person for the fiscal year because the amount would have been received or receivable by the person in or in respect of the fiscal year, the amount shall be included in computing the income of the person for the fiscal year unless the income is from property and the person has also transferred or assigned the property. 1968-69, c. 19, s. 8.

Securities in
satisfaction
of income
debt

34.—(1) Where a corporation has received security or other right or a certificate of indebtedness or other evidence of indebtedness wholly or partially as or in lieu of payment of or in satisfaction of an interest, dividend or other debt that was then payable and the amount of which would be included in computing the income of the corporation if it had been paid, the value of the security, right or indebtedness or the applicable portion thereof shall, notwithstanding the form or legal effect of the transaction, be included in computing the income of the corporation for the fiscal year in which it was received, and a payment in redemption of a security, satisfaction of the right or discharge of the indebtedness shall not be included in computing the income of the recipient.

Idem

(2) Where a security or other right or a certificate of indebtedness or other evidence of indebtedness has been received by a corporation wholly or partially as or in lieu of payment of or in satisfaction of a debt before the debt was payable, but was not itself payable or redeemable before the day on which the debt was payable, it shall for the purpose of subsection 1 be deemed to have been received when the debt became payable by the person holding it at the time.

Idem

(3) This section is enacted for greater certainty and shall not be construed as limiting the generality of the other provisions of this Part by which amounts are required to be included in computing income. R.S.O. 1960, c. 73, s. 36.

Bond
conversion

35. Where a corporation acquires a bond of a certain debtor and, in exchange, disposes of another bond of the same debtor, and

(a) the terms on which the bond disposed of conferred the right on the corporation to make the exchange; and

- (b) the amount payable to the corporation on the maturity of the bond acquired is the same as the amount that would have been payable to the corporation on the maturity of the bond disposed of if that bond had been held by the corporation to maturity,

the purchase price of the bond so acquired and the sale price of the bond so disposed of shall be deemed to be,

- (c) the amount at which the bond disposed of was valued in the inventory of property of the corporation at the end of the last fiscal year of the corporation preceding its disposal; or
- (d) if it was not so valued, the purchase price paid by the corporation for the bond disposed of. 1961-62, c. 23, s. 11.

36. Where the property described in the inventory of a business at the commencement of a fiscal year has, according to the method adopted by the corporation for computing income from the business for that fiscal year, not been valued as required by subsection 1 of section 26, the property described therein at the commencement of that fiscal year shall, if the Minister so directs, be deemed to have been valued as required by subsection 1 of section 26, and, in any such case, the income of the corporation for that fiscal year shall be correspondingly increased. 1961-62, c. 23, s. 13; 1968, c. 20, s. 16.

Incorrect
valuation of
inventory

DIVISION C—COMPUTATION OF TAXABLE INCOME

37.—(1) For the purpose of computing the taxable income of a corporation for a fiscal year, there may be deducted from the income for the fiscal year such of the following amounts as apply:

Computation
of taxable
income

1. The aggregate of gifts made by the corporation in the fiscal year (and in the immediately preceding fiscal year, to the extent of the amount thereof that was not deductible under this Part in computing the taxable income of the corporation for that immediately preceding fiscal year) to,

charitable
donations

- (i) registered Canadian charitable organizations,
- (ii) housing corporations resident in Canada and exempt from tax under Part I of the *Income Tax Act* (Canada) by paragraph *a* of subsection 1 of section 62 thereof, R.S.C. 1952,
c. 148
- (iii) Her Majesty in right of any province of Canada other than Ontario and any Canadian municipality,
- (iv) the United Nations or agencies thereof,
- (v) universities outside Canada prescribed to be universities, the student body of which ordinarily includes students from Canada, and

(vi) charitable organizations outside Canada to which Her Majesty in right of Canada has made a gift during the fiscal year of the corporation or the 12 months immediately preceding that fiscal year, not exceeding 10 per cent of the income of the corporation for the fiscal year, if payment of the amounts given is proven by filing receipts or photostatic reproductions thereof with the Minister that, in the case of donations to registered Canadian charitable organizations, contain prescribed information.

gifts to
Her
Majesty

2. The aggregate of gifts made by the corporation in the fiscal year and in the immediately preceding fiscal year, to the extent of the amount thereof that was not deductible under this Act in computing the taxable income of the corporation for that immediately preceding fiscal year to Her Majesty in right of Canada and of Ontario, not exceeding the amount remaining, if any, when the amount deductible for the fiscal year under paragraph 1 is deducted from the income of the corporation for the fiscal year, if payment of the amounts given is proven by filing receipts or photostatic reproductions thereof with the Minister.

business
losses

3. Business losses sustained in the five fiscal years immediately preceding and the fiscal year immediately following the taxation year, but,

(i) an amount in respect of a loss is only deductible to the extent that it exceeds the aggregate of amounts previously deductible in respect of that loss under this Act,

(ii) no amount is deductible in respect of the loss of any fiscal year until the deductible losses of previous fiscal years have been deducted, and

(iii) no amount is deductible in respect of losses from the income of any fiscal year except to the extent of the lesser of,

(A) the income of the corporation for the fiscal year from the business in which the loss was sustained and its income for the fiscal year from any other business, or

(B) the income of the corporation for the fiscal year minus all deductions permitted by the provisions of this Division other than this clause. R.S.O. 1960, c. 73, s. 39 (1); 1967, c. 15, s. 4 (1); 1968, c. 20, s. 17 (1, 2).

Application
of
subs. 1,
par. 3

(2) Paragraph 3 of subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, a business loss sustained by it in a preceding fiscal year, in any case where,

(a) between the end of that preceding fiscal year and the end of the taxation year,

(i) more than 50 per cent of the shares in the capital stock of the corporation have been acquired, before the 14th day of June, 1963, by a person or persons who did not, at the end of that preceding fiscal year, own any of the shares in the capital stock of the corporation, or

(ii) control of the corporation has been acquired after the 13th day of June, 1963, by a person or persons who did not, at the end of that preceding fiscal year, control the corporation; and

(b) the corporation was not, during the taxation year, carrying on the business in which the loss was sustained. R.S.O. 1960, c. 73, s. 39 (2); 1964, c. 11, s. 7 (1).

(3) Paragraph 3 of subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, a business loss sustained by it in a preceding fiscal year from the carrying on of a business if, during that preceding fiscal year, Idem

(a) the business of the corporation in which the loss was sustained was wound up or discontinued; and

(b) control of the corporation was acquired,

(i) after the winding-up or discontinuation of the business, and

(ii) after the 13th day of June, 1963,

by a person or persons who did not control the corporation at any time during the preceding fiscal year when the business was being carried on. 1964, c. 11, s. 7 (2).

(4) Paragraph 3 of subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, such part of a loss from farming sustained by it in another fiscal year as was not by virtue of section 25, deductible in computing its income for that other fiscal year, except to the extent of its income, if any, for the fiscal year from farming. 1970, c. 69, s. 9. Idem

(5) Paragraphs 1 and 2 of subsection 1 do not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, any amount in respect of gifts made by the corporation in the fiscal year, until the amount deductible under those paragraphs in respect of gifts made by the corporation in the immediately preceding fiscal year has been deducted. 1968-69, c. 19, s. 9. Application of section 39, subs. 1, pars. 1, 2

(6) In respect of a year after 1966, "registered Canadian charitable organization" means,

Registered
Canadian
charitable
organiza-
tions

R.S.C. 1952,
c. 148

- (a) a charitable organization in Canada exempt from tax under Part I of the *Income Tax Act* (Canada) by paragraph *e* of subsection 1 of section 62 thereof or a corporation or trust resident in Canada exempt from tax under that Part by paragraph *f* or *g* of that subsection; or
- (b) a branch, section, parish, congregation or other division of an organization described in clause *a* that receives donations on its own behalf,

that has been registered by the Minister for the purposes of this section in respect of the year and whose registration has not been revoked for such year. 1967, c. 15, s. 4 (2), *part*; 1968, c. 20, s. 17 (3).

Registration
of Canadian
charitable
organiza-
tions

(7) The Minister shall be deemed to have registered as a Canadian charitable organization in respect of the year under this section every charitable organization, corporation or trust that is registered by the Minister of National Revenue for Canada as a Canadian charitable organization in respect of the same year under subsection 3*b* of section 27 of the *Income Tax Act* (Canada). 1967, c. 15, s. 4 (2), *part*; 1968, c. 20, s. 17 (4).

Revocation
of regis-
tration

(8) The Minister shall be deemed to have revoked the registration of a charitable organization, corporation or trust as a registered Canadian charitable organization when the Minister of National Revenue for Canada revokes it under subsection 3*c* of section 27 of the *Income Tax Act* (Canada). 1967, c. 15, s. 4 (2), *part*; 1968, c. 20, s. 17 (5).

Dividends
received by
a corporation

38.—(1) Where a corporation in a fiscal year received a dividend or is deemed by section 55 to have received a dividend from a corporation that,

- (a) was resident in Canada in the fiscal year and was not by virtue of a statutory provision exempt from tax under Part I of the *Income Tax Act* (Canada) for the fiscal year;
- (b) was a corporation non-resident of Canada more than 25 per cent of the issued share capital of which, having full voting rights under all circumstances, belong to the corporation receiving the dividend; or
- (c) was a foreign business corporation more than 25 per cent of the issued share capital of which, having full voting rights under all circumstances, belong to the corporation receiving the dividend,

an amount equal to the dividend minus any amount deducted under subsection 3 of section 23 in computing the income of the corporation receiving the dividend may be deducted from the

income of that corporation for the fiscal year for the purpose of determining its taxable income. R.S.O. 1960, c. 73, s. 40 (1); 1966, c. 30, s. 6.

(2) Where a corporation in a fiscal year received a dividend from a non-resident corporation that is taxable under subsection 2 of section 2 of the *Income Tax Act* (Canada) for that year, the corporation shall deduct from its income for the same fiscal year the same amount in respect of such dividend as the corporation was allowed to deduct under subsection 10 of section 28 of the *Income Tax Act* (Canada). 1962-63, c. 26, s. 5. Idem
R.S.C. 1952,
c. 148

(3) Where a corporation has, in computing its taxable income for a fiscal year, deducted an amount under this section in respect of a dividend, no loss arising from transactions with reference to the share in respect of which the dividend was received shall be allowed to reduce the income of the corporation for that or a subsequent fiscal year unless it is established by the corporation that, Losses not
deductible
for trading
stock

- (a) the corporation owned the share 365 days or longer before the loss was sustained; and
- (b) the corporation did not, at the time the dividend was received, own more than 5 per cent of any class of the issued share capital of the corporation from which the dividend was received. R.S.O. 1960, c. 73, s. 40 (2).

DIVISION D—EXCEPTIONAL CASES AND SPECIAL RULES

Personal Corporations

39.—(1) No tax is payable under section 5 by a corporation for a fiscal year during which it was a personal corporation. R.S.O. 1960, c. 73, s. 42 (1); 1968-69, c. 18, s. 4. Personal
corporations
exempt

(2) In this Act, “personal corporation” means a corporation that, during the whole of the fiscal year in respect of which the expression is being applied, Interpre-
tation

- (a) was controlled, whether through holding of the majority of the shares of the corporation or in any other manner whatsoever, by an individual resident in Canada, by such individual and one or more members of his family who were resident in Canada or by any other person on his or their behalf;
- (b) derived at least one-quarter of its income from,
 - (i) ownership of or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or interest therein,
 - (ii) lending money with or without securities,
 - (iii) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends, or

(iv) estates or trusts; and

- (c) did not carry on an active financial, commercial or industrial business. R.S.O. 1960, c. 73, s. 42 (2); 1968-69, c. 19, s. 11.

Idem (3) For the purpose of clause *a* of subsection 2, the members of the family of an individual are his spouse, sons and daughters, whether or not they live together. R.S.O. 1960, c. 73, s. 42 (3).

Idem (4) For the purpose of clause *c* of subsection 2, a corporation shall be deemed to have carried on an active financial, commercial or industrial business during a fiscal year unless the corporation having earned taxable income during such fiscal year was exempted from tax under Part I of the *Income Tax Act* (Canada) for that fiscal year because it was deemed to be a personal corporation as defined by subsection 1 of section 68 of the *Income Tax Act* (Canada) for the same fiscal year. 1961-62, c. 23, s. 15.

R.S.C. 1952, c. 148

Distribution of income (5) The income of a personal corporation whether actually distributed or not shall be deemed to have been distributed to and received by the shareholders as a dividend on the last day of each fiscal year of the corporation.

Division of income (6) The part of the income of a personal corporation that shall be deemed under this section to have been distributed to and received by a shareholder of the corporation shall be the proportion thereof that the value of all property transferred or loaned to the corporation by the shareholder or any person by whom his share was previously owned is of the value of the property so acquired by the corporation from all its shareholders.

Valuation (7) The value of property transferred or loaned to a personal corporation shall be deemed for the purpose of this section to be its value at the time the property was transferred or loaned to the corporation.

Transfers (8) For the purpose of this section, where the property of a personal corporation is transferred to or otherwise acquired by another personal corporation, the shareholders of the first corporation shall be deemed to have transferred to the second corporation the property that they or persons who previously owned their share transferred to the first corporation.

Dividends declared (9) Where a dividend has in a fiscal year actually been paid by a corporation that was at the time of payment and always had been a personal corporation, the portion thereof to which a shareholder is entitled and which is received by the shareholder shall not be included in computing the income of that shareholder for the fiscal year in which it was received. R.S.O. 1960, c. 73, s. 42 (4-8).

Idem (10) Where a dividend has in a fiscal year been paid by a personal corporation that was in some previous fiscal year not a personal corporation, the following applies:

1. The dividend shall not be included in computing the incomes of the shareholders by whom it was received for the fiscal year in which it was received if the dividend does not exceed the remainder obtained when,
 - (i) the aggregate of dividends paid by the corporation previous to that time and not included by virtue of this section in computing the incomes of the shareholders by whom they were received,
is subtracted from,
 - (ii) the aggregate of the amounts deemed under this section to have been distributed while it was a personal corporation.
2. In a case where the dividend exceeds the remainder referred to in paragraph 1, the dividends shall only be included in computing the incomes of the shareholders by whom it was received for the fiscal year in which it was received to the extent that the excess does not exceed the undistributed income on hand earned by the corporation since the 1st day of January, 1917, in fiscal years when the corporation was not a personal corporation.
3. Where the amount to be included in computing the incomes of shareholders by virtue of paragraph 2 is less than the dividend, the portion thereof that shall be so included in computing the income of a particular shareholder for the fiscal year is the portion thereof that his portion of the dividend is of the whole dividend. R.S.O. 1960, c. 73, s. 42 (9); 1965, c. 22, s. 10.

(11) Where a dividend has in a fiscal year been paid by a corporation when it was not a personal corporation but had previously been one, it shall be included in computing the incomes of the shareholders by whom it was received for the fiscal year in which it was received only to the extent that the dividend exceeds the remainder obtained when,

- (a) the aggregate of dividends paid by the corporation previous to that time and not included by virtue of this section in computing the incomes of shareholders by whom they were received,
is subtracted from,
- (b) the aggregate of the amounts deemed under this section to have been distributed by it to its shareholders while it was a personal corporation,

and, where the excess is less than the dividend so paid, the amount that shall be so included in computing the income of a particular shareholder for the fiscal year is the proportion of the excess that the portion of the dividend belonging to that particular shareholder is of the whole dividend.

Dividends
deemed paid
or received

(12) Where a dividend is deemed by any provision other than this section to have been paid or received, it shall for the purpose of this section be regarded as having been paid.

Where chief
source of
income of
personal
corporation
not farming

(13) Where it has been determined for the purpose of subsection 1 of section 25 that the chief source of income of a corporation for a fiscal year is neither farming nor a combination of farming and some other source of income, its farming business shall be deemed for the purpose of clause c of subsection 2 not to have been during the fiscal year an active financial, commercial or industrial business. R.S.O. 1960, c. 73, s. 42 (10-12).

Where
corporation
bankrupt

40.—(1) Where a corporation has become a bankrupt, the following rules are applicable:

1. The trustee in bankruptcy shall be deemed to be the agent of the bankrupt for all purposes of this Act.
2. The estate of the bankrupt shall be deemed not to be a trust or an estate for the purposes of this Act.
3. The income and the taxable income of the corporation for any fiscal year of the corporation during which it was a bankrupt and for any subsequent fiscal year shall be calculated as if,
 - (a) the property of the bankrupt did not pass to and vest in the trustee in bankruptcy on the receiving order being made or the assignment filed but remained vested in the bankrupt; and
 - (b) any dealing in the estate of the bankrupt or any act performed in the carrying on of the business of the bankrupt estate by the trustee was done as agent on behalf of the bankrupt and any income of the trustee from such dealing or carrying on is income of the bankrupt and not of the trustee.
4. A fiscal year of the corporation shall be deemed to have commenced on the day the corporation became a bankrupt and a fiscal year of the corporation that would otherwise have ended after the corporation became a bankrupt shall be deemed to have ended on the day immediately before the day on which the corporation became a bankrupt.
5. Where, in the case of any fiscal year of the corporation ending during the period the corporation is a bankrupt, the corporation fails to pay the tax payable by the corporation under this Act for any such fiscal year, the corporation and the trustee in bankruptcy are jointly and severally liable to pay the tax, except that,

- (a) the trustee is only liable to the extent of the property of the bankrupt in his possession; and
 - (b) payment by either of them shall discharge the joint obligation.
6. Where an absolute order of discharge is granted in respect of the corporation, for the purpose of paragraph 3 of subsection 1 of section 37, business losses sustained by the corporation in any fiscal year preceding the year in which the order of discharge was granted are not deductible by the corporation in computing its taxable income for the fiscal year of the corporation in which the order was granted or any subsequent fiscal year.

(2) In this section, "bankrupt" and "estate of the bankrupt" have the meaning given to those expressions by the *Bankruptcy Act* (Canada). 1964, c. 11, s. 8.

Interpretation
R.S.C. 1952,
c. 14

INSURANCE CORPORATIONS

41.—(1) For the purpose of this section, an "insurance corporation" or "insurer" means any corporation with or without share capital, to which section 68A of the *Income Tax Act* (Canada) applies. 1970, c. 69, s. 10 (1).

Insurance corporation and insurer defined
R.S.C. 1952,
c. 148

(2) Notwithstanding any other provision of this Act and in order that insurance corporations or insurers may be dealt with under this Act as they will be dealt with under Part I of the *Income Tax Act* (Canada) for fiscal years commencing or ending in 1969 and for subsequent fiscal years, it is hereby declared that for the purpose of section 5, the taxable incomes of such corporations for the purposes of this Act shall be the same as the taxable incomes of such corporations as determined for the purposes of Part I of the *Income Tax Act* (Canada). 1968-69, c. 19, s. 12, part; 1970, c. 69, s. 10 (2).

Calculation of taxable income

42. Where a life insurance corporation that is incorporated under the laws of a province has applied an amount in payment for shares of the corporation purchased by it under the authority of a law of the province that provides for the conversion of the corporation into a mutual corporation by the purchase of its shares in accordance with the provisions of such law,

Conversion of provincial life insurance corporation into mutual corporation

- (a) section 20 does not apply to require the inclusion, in computing the income of a shareholder of the corporation, of any part of that amount; and
- (b) no part of that amount shall be deemed for the purposes of subsection 2 of section 41 to have been paid to shareholders or, for the purposes of section 55, to have been received as a dividend. 1970, c. 69, s. 11.

Non-Resident-Owned Investment Corporations

Non-resident-owned investment corporations, tax exempt

43.—(1) No tax is payable under section 5 by a corporation for a fiscal year during which it was a non-resident-owned investment corporation. R.S.O. 1960, c. 73, s. 45 (1); 1968-69, c. 18, s. 5.

Interpretation

(2) In this Act, "non-resident-owned investment corporation" means a corporation incorporated in Canada that during the whole of the fiscal year in respect of which the expression is being applied complied with the following conditions:

1. At least 95 per cent of the aggregate value of its issued shares and all its bonds, debentures and other funded indebtedness were,
 - (i) beneficially owned by non-resident persons,
 - (ii) owned by trustees for the benefit of non-resident persons or their unborn issue, or
 - (iii) owned by a corporation, whether incorporated in Canada or elsewhere, at least 95 per cent of the aggregate value of the issued shares of which and all the bonds, debentures and other funded indebtedness of which were beneficially owned by non-resident persons or owned by trustees for the benefit of non-resident persons or their unborn issue or by several such corporations.
2. Its income was derived from,
 - (i) ownership or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or any interest therein,
 - (ii) lending money with or without security,
 - (iii) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends, or
 - (iv) estates or trusts.
3. Not more than 10 per cent of its gross revenue was derived from rents, hire of chattels or charterparty fees or remunerations.
4. Its principal business was not,
 - (i) the making of loans, or
 - (ii) trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or any interest therein.
5. It has, not later than ninety days after the commencement of the fiscal year, elected in the manner provided by section 70 of the *Income Tax Act* (Canada) to be taxed as provided by section 70 thereof.

6. It has not, before the fiscal year, revoked the election under the *Income Tax Act* (Canada) to be taxed under that Act as provided by section 70 thereof.
7. It has paid the taxes payable for a fiscal year under Part I of the *Income Tax Act* (Canada), as provided by subsection 2 of section 70 thereof. R.S.O. 1960, c. 73, s. 45 (2); 1967, c. 15, s. 5; 1968, c. 20, s. 18.

Foreign Business Corporations

44.—(1) No tax is payable under section 5 by a corporation for a fiscal year during which it was a foreign business corporation. 1968-69, c. 18, s. 6.

Foreign
business
corporations,
tax
exempt

(2) In this Act, "foreign business corporation" means a corporation that during the whole of the fiscal year in respect of which the expression is being applied,

Interpre-
tation

- (a) was not a personal corporation;
- (b) complied with one of the following conditions:
 - (i) its business operations were of an industrial, mining, commercial, public utility or public service nature and were carried on entirely outside Canada, except for management and the designing, purchasing and transportation of goods if the goods were not acquired for resale in the course of trading and were acquired for the operations so carried on outside Canada, either directly or through ownership of shares in or control of subsidiary or affiliated corporations and its property, except securities and bank deposits, was situate entirely outside Canada,
 - (ii) it was the wholly-owned subsidiary of a corporation that complied with the conditions in subclause i and was wholly engaged in carrying on business outside Canada, or
 - (iii) its business was of an investment or financial nature and was carried on entirely outside Canada, its shares had been offered for public subscription or were listed on a recognized stock exchange in Canada or elsewhere and its property, except bank deposits and shares of other corporations that were entitled to exemption under this section, was situate entirely outside Canada; and
- (c) derived not more than 10 per cent of its gross revenue from the leasing or operation by it of a ship or aircraft, and has,
- (d) filed a return for the fiscal year in the form and within the period of time required by section 73 and within the same time paid the tax levied by section 6; or

- (e) within 370 days from the end of the fiscal year, filed a return for the fiscal year in the form required by section 73 and paid the tax imposed by section 6 plus a penalty for late filing equal to \$10 for each day of delay after the expiration of the period of time from the end of the fiscal year within which section 73 requires the filing of a return. R.S.O. 1960, c. 73, s. 46 (2); 1968-69, c. 19, s. 13.

Situs

(3) For the purposes of this section, shares and bonds of corporations incorporated in Canada shall be deemed to be property situate in Canada notwithstanding that they have been transferred on a register outside Canada.

Exception

(4) Where a corporation would have complied during the whole of a fiscal year with the condition contained in subclause i or clause b of subsection 2 were it not that its business operations during the fiscal year were carried on in part in Canada through ownership of shares in or control of one or more subsidiary or affiliated corporations, the corporation shall be deemed to have complied with that condition if, during the whole of the fiscal year,

- (a) the business operations so carried on in Canada were of a mining nature; and
- (b) its main business operations were of an industrial, mining, commercial, public utility or public service nature, and were, except for management and the designing, purchasing, and transportation of goods, carried on outside Canada.

Application of section

(5) This section does not apply to exempt a corporation from tax under section 5 or 6 for a fiscal year ending after the 9th day of April, 1959, hereinafter in this subsection referred to as a "particular taxation year", unless,

- (a) in the case of a corporation that had a fiscal year ending before 1959, the corporation was during its last fiscal year ending before 1959 and each subsequent fiscal year, if any, previous to the particular taxation year, a foreign business corporation;
- (b) in the case of a corporation incorporated on or before the 9th day of April, 1959, that did not have a fiscal year ending before 1959, the corporation was during its first fiscal year ending after 1958 and each subsequent fiscal year, if any, previous to the particular taxation year, a foreign business corporation; or
- (c) in the case of a corporation that had a fiscal year ending on or before the 9th day of April, 1959, the corporation was during the fiscal year in which that date occurred and each subsequent fiscal year, if any, previous to the particular taxation year, a foreign business corporation,

and had during that part of its fiscal year in which that date occurred that was before the 10th day of April, 1959, business operations that complied with one of the conditions contained in clause *b* of subsection 2. R.S.O. 1960, c. 73, s. 46 (3-5).

CORPORATIONS IN DESIGNATED AREAS

45.—(1) Subject to this section, there shall not be included in computing the income of a corporation for a fiscal year income from the carrying on by the corporation of a manufacturing or processing business in a designated area during a fiscal year of the business,

Exemptions of income from manufacturing or processing business in designated area

- (a) occurring wholly within the thirty-six-month period that commenced on the day certified as the day on which the business commenced manufacturing or processing in reasonable commercial quantities; and
- (b) for which the business is certified to be a new manufacturing or processing business carried on in a designated area. 1965, c. 22, s. 11, *part*; 1966, c. 30, s. 7 (1).

(2) In this section,

Interpretation

- (a) “certified” means certified by the Minister pursuant to subsection 7;
- (b) “designated area” has the meaning given to that expression by the *Department of Industry Act* (Canada);
- (c) “manufacturing or processing business” means a business that had net sales for the fiscal year in respect of which the expression is being applied from the sale of goods processed or manufactured in Canada by the business, the amount of which was at least 95 per cent of the amount by which the gross revenue from the business for the fiscal year exceeds the aggregate of each amount paid or credited in the fiscal year to a customer of the business as a bonus, rebate or discount or for returned or damaged goods;
- (d) “net sales” of a business for a fiscal year means an amount equal to,
 - (i) the gross revenue from the business for the fiscal year from sales,
 - minus,
 - (ii) the aggregate of each amount paid or credited in the fiscal year to a customer of the business as a bonus, rebate or discount or for returned or damaged goods;
- (e) “new manufacturing or processing business” means a manufacturing or processing business that commenced manufacturing or processing in reasonable commercial

1963,
c. 3 (Can.)

quantities after the 4th day of December, 1963, and before the 1st day of April, 1967, or, where the Minister is satisfied,

- (i) that the facilities to be used in the business were in the process of being constructed, installed or assembled on the site of the proposed business premises on the 29th day of March, 1966, and
- (ii) that the business was unable to commence manufacturing or processing in reasonable commercial quantities before the 1st day of April, 1967, by reason of an event beyond the control of the corporation,

before the 1st day of April, 1968;

- (f) "sales", in relation to a business, means sales in respect of which an amount is included in computing the income from the business for the fiscal year otherwise than by virtue of section 32 or subsection 1 of section 63; and
- (g) goods processed or manufactured shall be deemed not to include goods that have been packaged only. 1965, c. 22, s. 11, *part*; 1966, c. 30, s. 7 (2); 1967, c. 15, s. 6; 1968, c. 20, s. 19 (1, 2).

Exception

(3) For the purpose of this section, a business that includes,

- (a) operating a gas or oil well;
- (b) logging;
- (c) mining;
- (d) construction;
- (e) farming; or
- (f) fishing,

shall be deemed not to be a manufacturing or processing business. 1966, c. 30, s. 7 (3).

Business in
a designated
area

(4) For the purpose of this section, a corporation shall be deemed not to have been carrying on a business in a designated area in a fiscal year unless,

- (a) throughout the fiscal year, the value of all machinery, equipment (other than delivery equipment) and buildings situated in the designated area that were owned or leased by the corporation and used in the business is at least 95 per cent of the value of all machinery, equipment (other than delivery equipment) and buildings wherever situated that were owned or leased by the corporation and used in the business; and
- (b) throughout the fiscal year, the value of all machinery and equipment that were owned or leased by the corporation and used in the business and,

- (i) that were acquired by the corporation or by the lessor, as the case may be, after the 13th day of June, 1963, and before the 18th day of June, 1965, and had not been used for any purpose whatsoever before the 14th day of June, 1963, and
- (ii) that were acquired by the corporation or by the lessor, as the case may be, after the 17th day of June, 1965, and had not been used for any purpose whatsoever,
 - (A) before the machinery and equipment were so acquired, or
 - (B) before the 14th day of June, 1963, if the machinery and equipment were acquired pursuant to a *bona fide* contract in writing entered into before the 18th day of June, 1965, that provided for the acquisition of the machinery and equipment,

is at least 95 per cent of the value of all machinery and equipment that were used in the business. 1965, c. 22, s. 17, *part*; 1966, c. 30, s. 7 (4).

(5) For the purpose of clause *c* of subsection 2, an amount equal Rent to that part of the gross revenue from a business for a fiscal year that is rent from goods processed or manufactured in Canada in the course of the business shall, in determining whether the business is a manufacturing or processing business in the fiscal year, be added to the net sales for the fiscal year from the sale of goods processed or manufactured in Canada by the business.

(6) For the purpose of subsection 4, the value of any machinery, equipment and buildings that were owned or leased by a corporation and used in a business is the value thereof as of the day such machinery, equipment and buildings were first used in the business. 1965, c. 22, s. 11, *part*. Determina-
tion of value

(7) The Minister may, upon application in prescribed manner Certification by a corporation carrying on a new manufacturing or processing business in a designated area, issue a certificate certifying for the fiscal year of the business in respect of which the application is made,

- (a) that the business was a new manufacturing or processing business;
- (b) that the business was being carried on in a designated area; and
- (c) in the case of the first fiscal year of the business for which a certificate is issued, the day upon which the business commenced manufacturing or processing in reasonable commercial quantities. 1965, c. 22, s. 11, *part*; 1968, c. 20, s. 19 (3).

Notice of
intention

(8) A corporation intending to carry on a new manufacturing or processing business in a designated area may file with the Minister a notice of intention in such form as may be prescribed. 1965, c. 22, s. 11, *part*; 1968, c. 20, s. 19 (4).

Deemed
designated
area

(9) Where, during a fiscal year when an area was a designated area,

(a) a certificate was issued under subsection 7; or

(b) a notice of intention was filed under subsection 8,

with respect to a new manufacturing or processing business of a corporation in that area, if the area has ceased to be a designated area, it shall,

(c) where the business commenced manufacturing or processing in reasonable commercial quantities before the area ceased to be a designated area or within twelve months thereafter; or

(d) in any other case, if the Minister is satisfied,

(i) that the corporation had made substantial progress in establishing the new business before the area ceased to be a designated area, and

(ii) that the corporation proceeded with reasonable expedition, after the area ceased to be a designated area, to cause the business to commence manufacturing or processing in reasonable commercial quantities,

for the purposes of the application of this section in computing the income of the corporation from carrying on the business, be deemed to be a designated area. 1965, c. 22, s. 11, *part*; 1968, c. 20, s. 19 (5).

Limitation
where grant
payable
under
1965,
c. 12 (Can.)

(10) Where at any time an amount on account of a development grant under the *Area Development Incentives Act* (Canada) has been paid to a corporation for the establishment of a new facility or the expansion of an existing facility as defined in that Act, subsection 1 does not apply to permit a deduction in computing the income of a corporation, for any fiscal year ending after that time, from the carrying on by the corporation of a manufacturing or processing business if,

(a) in the case of a grant for the establishment of a new facility, the new facility or any part thereof; or

(b) in the case of a grant for the expansion of an existing facility, the expanded facility or any part thereof, other than the part thereof existing at the time the grant was authorized,

has, during that or a previous fiscal year, been used in carrying on the business. 1966, c. 30, s. 7 (5).

Scientific Research

46.—(1) In computing the income for a fiscal year of a corporation that had a permanent establishment in Canada and made expenditures in respect of scientific research in the fiscal year, there may be deducted the amount by which the aggregate of,

Scientific
research,
deductions
from
income

- (a) all expenditures of a current nature made in Canada in the fiscal year,
 - (i) on scientific research related to the business and directly undertaken by or on behalf of the corporation,
 - (ii) by payments to an approved association that undertakes scientific research related to the class of business of the corporation,
 - (iii) by payments to an approved university, college, research institute or other similar institution to be used for scientific research related to the class of business of the corporation,
 - (iv) by payments to a corporation resident in Canada and exempt from tax on taxable income by clause *f* of subsection 42 of section 5,
 - (v) by payments to a corporation resident in Canada for scientific research related to the business of the corporation;
- (b) such amount as may be claimed by the corporation not exceeding the lesser of,
 - (i) the expenditures of a capital nature made in Canada, by acquiring property other than land, in the fiscal year and any previous fiscal year ending after 1958 on scientific research relating to the business and directly undertaken by or on behalf of the corporation, or
 - (ii) the undepreciated capital cost to the corporation of the property so acquired as of the end of the fiscal year, before making any deductions under this clause in computing the income of the corporation for the fiscal year; and
- (c) all expenditures in the year by way of repayments of amounts paid to the corporation under an *Appropriation Act* (Canada) and approved by the Minister for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry,

exceeds the aggregate of amounts paid to the corporation in the fiscal year under the *Appropriation Act* (Canada). 1968, c. 20, s. 20 (1); 1968-69, c. 19, s. 14 (1, 2).

Idem

(2) There may be deducted, in computing the income for a fiscal year of a corporation that carried on business in Canada and made expenditures in the fiscal year in respect of scientific research carried on outside Canada, all such expenditures of a current nature made in the year,

- (a) on scientific research related to the business and directly undertaken by or on behalf of the corporation; or
- (b) by payments to an approved association, university, college, research institute or other similar institution to be used for scientific research related to the class of business of the corporation. 1965, c. 22, s. 12 (1).

Determin-
ation of
what
constitutes
scientific
research
R.S.C. 1952,
c. 148

(3) Where any particular activity constitutes scientific research for the purposes of subsection 2 of section 72 of the *Income Tax Act* (Canada), such particular activity shall constitute scientific research for the purposes of this Act. 1968-69, c. 19, s. 14 (3).

Deductions

(4) No deduction may be made under this section or section 47 in respect of an expenditure made to acquire rights in, or arising out of, scientific research. 1964, c. 11, s. 9, *part*.

Idem

(5) Where in respect of an expenditure on scientific research made by a corporation in a fiscal year an amount is deductible under this section and under section 37, no deduction may be made in respect of the expenditure under section 37 in computing the taxable income of the corporation for any fiscal year. 1965, c. 22, s. 12 (2).

Interpre-
tation

(6) In this section and in section 47,

- (a) "approved" means approved by the Minister;
- (b) "scientific research" has the meaning given to that expression by regulation;
- (c) references to expenditures on or in respect of scientific research,
 - (i) where the references occur in subsection 2, include only expenditures incurred for and wholly attributable to the prosecution of scientific research, and
 - (ii) where the references occur other than in subsection 2, include only expenditures incurred for and wholly attributable to the prosecution, or the provision of facilities for the prosecution, of scientific research in Canada; and
- (d) references to scientific research relating to a business or class of business include any scientific research that may lead to or facilitate an extension of that business or, as the case may be, business of that class. R.S.O. 1960, c. 73, s. 47 (4); 1962-63, c. 26, s. 6 (4, 5, *part*); 1965, c. 22, s. 12 (3); 1968, c. 20, s. 20 (2).

(7) An amount claimed under clause *b* of subsection 1 in computing a deduction under that subsection shall for the purpose of section 32 be deemed to be an amount allowed to the corporation in respect of the property acquired by the expenditures under the regulations made pursuant to clause *a* of subsection 2 of section 23 and for that purpose the property acquired by the expenditures shall be deemed to be of a separate prescribed class. 1968, c. 20, s. 20 (3).

Expenditures of a capital nature

47.—(1) In addition to the deductions allowed for the fiscal year by section 46, a corporation, other than a corporation referred to in subsection 2, that carried on business in Canada and made expenditures in respect of scientific research in a fiscal year may deduct, in computing its income for the fiscal year, 50 per cent of the amount by which,

Additional deduction for scientific research

(a) the aggregate of,

- (i) all expenditures of a current nature made in Canada in the fiscal year, as described in subclauses i to v of clause *a* of subsection 1 of section 46, on scientific research, and
- (ii) all expenditures of a capital nature made in Canada, by acquiring property other than land, in the fiscal year on scientific research,

exceeds,

(b) the aggregate of,

- (i) the base scientific expenditure of the corporation, and
- (ii) any amount paid to the corporation in the fiscal year in respect of scientific research undertaken by the corporation,
 - (A) by Her Majesty in right of Canada or a province,
 - (B) by a person resident in Canada, or
 - (C) by a person not resident in Canada if such person is entitled, in respect of the payment, to a deduction in computing his income by virtue of subclause v of clause *a* of subsection 1 of section 46. 1962-63, c. 26, s. 7, *part*.

(2) In addition to the deductions allowed for the fiscal year by section 46, a corporation that carried on business in Canada and made expenditures in respect of scientific research in a fiscal year and that was associated with one or more corporations in the fiscal year or in the last fiscal year of the corporation that ended before the 11th day of April, 1962, may deduct, in computing its income for the fiscal year, an amount determined by the following rules:

Deduction by associated corporation

1. Determine the amount, if any, by which,
 - (a) the aggregate of the expenditures described in subclauses i and ii of clause a of subsection 1 made in the fiscal year by the corporation,
exceeds,
 - (b) the aggregate of the base scientific expenditure of the corporation and any amount paid to the corporation in the fiscal year as described in subclause ii of clause b of subsection 1;
2. Determine the amount, if any, by which,
 - (a) the aggregate of all expenditures described in subclauses i and ii of clause a of subsection 1,
 - (i) made by the corporation in the fiscal year, or
 - (ii) made by each corporation associated with the corporation in the fiscal year, in the associated corporation's fiscal year that ended in the same calendar year as the fiscal year referred to in subclause i,
exceeds,
 - (b) the aggregate of,
 - (i) the base scientific expenditures of the corporation and of each corporation associated with the corporation in the fiscal year other than a corporation an amount equal to the base scientific expenditure of which is included, by virtue of paragraph 12 of subsection 2 of section 66, in the base scientific expenditure of another corporation that is also associated with the corporation in the fiscal year,
 - (ii) the base scientific expenditures of each corporation,
 - (A) that was associated with the corporation in the last fiscal year of the corporation that ended before the 11th day of April, 1962,
 - (B) that was not associated with the corporation in the fiscal year, and
 - (C) in respect of which substantially all the business that was carried on by such corporation in Canada in its last fiscal year that ended before the 11th day of April, 1962, was acquired in any manner whatsoever, other than by an amalgamation within the meaning of section 66, by the corporation or one or more corporations associated with the corporation in the fiscal year, and

(iii) all amounts described in subclause ii of clause *b* of subsection 1,

(A) paid to the corporation in the fiscal year,
or

(B) paid to each corporation associated with the corporation in the fiscal year, in the associated corporation's fiscal year that ended in the same calendar year as the year referred to in paragraph A;

3. Ascertain the aggregate of,

(a) the amount calculated under paragraph 1; and

(b) the amount calculated pursuant to paragraph 1 for each corporation that is associated with the corporation in the fiscal year; and

4. Determine the amount equal to 50 per cent of that portion of the amount determined under paragraph 2 that,

(a) the amount determined under paragraph 1,

is of,

(b) the aggregate ascertained under paragraph 3,

and the amount determined under paragraph 4 is the amount that may be deducted in computing the income for the fiscal year of the corporation. 1962-63, c. 26, s. 7, *part*; 1968, c. 20, s. 21 (1, 2).

(3) For the purposes of subsections 1 and 2, the base scientific expenditure of a corporation is an amount equal to,

Base
scientific
expenditure
defined

(a) the aggregate of all expenditures of a current or capital nature, by acquiring property other than land, made in Canada by the corporation in the last fiscal year of the corporation that ended before the 11th day of April, 1962, on scientific research related to the business of the corporation,

minus

(b) any amount paid to the corporation in the fiscal year referred to in clause *a* as described in subclause ii of clause *b* of subsection 1,

but, where the corporation had no fiscal year that ended before the 11th day of April, 1962, its base scientific expenditure is nil. 1964, c. 11, s. 10 (1).

(4) Where property, other than land, acquired by a corporation by expenditures of a capital nature made in Canada by the corporation on scientific research has, in a fiscal year, been disposed of by the corporation, there shall be included in computing the income of the corporation for the year the lesser of,

Disposition
of property

- (a) an amount equal to 50 per cent of,
 - (i) the proceeds of disposition of the property, or
 - (ii) the capital cost to the corporation of the property, whichever is the lesser; or
- (b) an amount equal to,
 - (i) the aggregate of each amount deductible under subsection 1 or 2, as the case may be, in computing the income of the corporation for the fiscal year and each previous fiscal year,
 minus,
 - (ii) the aggregate of each amount included by virtue of this subsection in computing the income of the corporation in respect of a previous disposition of property.

Application
of clause b
of subs. 4

(5) For the purpose of clause b of subsection 4, the amount deductible under subsection 1 or 2, as the case may be, in computing the income of a corporation for a fiscal year shall not include any amount in excess of 50 per cent of the expenditures of a capital nature made in Canada by the corporation, by acquiring property other than land, in the fiscal year on scientific research. 1962-63, c. 26, s. 7, *part*.

Idem

(6) For the purpose of clause a of subsection 1, an expenditure of a capital nature made by a corporation in the fiscal year on scientific research does not include any expenditure made by the corporation in that fiscal year for the acquisition, from another corporation associated with the corporation in the fiscal year, of facilities for the prosecution of scientific research. 1964, c. 11, s. 10 (2).

Where grant
for scientific
research and
development
under
1966-67,
c. 82 (Can.)

(7) Where in a fiscal year a grant has been authorized to be paid to a corporation under the *Industrial Research and Development Incentives Act* (Canada) in respect of expenditures on scientific research and development as defined in the *Industrial Research and Development Incentives Act* (Canada), the corporation is not, and shall be deemed never to have been, entitled to make any deduction under this section in computing its income for that fiscal year. 1968, c. 20, s. 21 (3).

Co-operatives

Co-operative
corporations,
income tax
exemption

48.—(1) Except as provided in subsection 2, no tax is payable under section 5 for each of the first three fiscal years after commencement of its business by a co-operative corporation that commenced business on or after the 1st day of January, 1947.

Exception

(2) The exemption provided by subsection 1 does not apply to a co-operative corporation, the business of which is a continuation of a previous business in which a substantial number of its

members had a substantial interest either as shareholders of a corporation carrying on the previous business or otherwise.

(3) Where a co-operative corporation has received a grant from the government of a province that was not fixed by reference to natural products marketed, supplies, equipment or household necessities purchased or sold or services performed by it, Provincial grant

- (a) no amount shall be included in respect of the grant in computing the income of the corporation for any fiscal year; and
- (b) paragraph 8 of subsection 8 of section 32 is not applicable in respect of any property in respect of or for the acquisition of which the grant was received. R.S.O. 1960, c. 73, s. 48 (1-3).

(4) In this Act, "co-operative corporation" means a corporation that was incorporated under legislation of a province respecting the establishment of co-operative corporations for the purpose of marketing, including processing incident to or connected therewith, natural products belonging to or acquired from its members or customers, of purchasing supplies, equipment or household necessities for or to be sold to its members or customers or of performing services for its members or customers, if, during the fiscal year, Interpretation

- (a) the statute under which it was incorporated, its charter, articles of association or by-laws or its contracts with its members or its members and customers held forth the prospect that payments would be made to them in proportion to patronage;
- (b) none of its members had more than one vote in the conduct of its affairs;
- (c) at least 90 per cent of its members are individuals and at least 90 per cent of its shares, if any, are held by individuals;
- (d) the rate of interest on capital subscribed by its members or the rate of its dividends on its shares did not exceed 5 per cent per annum; and
- (e) the value of the product marketed for or acquired from, supplies, equipment and household necessities purchased for or sold to, and the services performed for, its customers other than members did not exceed 20 per cent of the total thereof for all its business.

(5) Clause *a* of subsection 2 of section 55 does not apply where the corporation that redeemed or acquired its common shares or that reduced its common stock is a co-operative corporation. R.S.O. 1960, c. 73, s. 48 (5, 6). Non-application of s. 55 (2) (a)

Patronage Dividends

Patronage dividends, deduction in computing income

49.—(1) Notwithstanding anything in this Part, there may be deducted in computing income for a fiscal year the aggregate of the payments made pursuant to allocations in proportion to patronage by a corporation,

- (a) within the fiscal year or within twelve months thereafter to its customers of the fiscal year; and
- (b) within the fiscal year or within twelve months thereafter to its customers of a previous fiscal year, the deduction of which from income of a previous fiscal year was not permitted.

Limitation where non-member customers

(2) Notwithstanding subsection 1, if the corporation has not made allocations in proportion to patronage in respect of all its customers of the fiscal year at the same rate with appropriate differences for different types or classes of goods, products or services, or classes, grades or qualities thereof, the amount that may be deducted under this section is an amount equal to the lesser of,

- (a) the aggregate of the payments mentioned in subsection 1; or
- (b) the aggregate of,
 - (i) the part of the income of the corporation for the fiscal year attributable to business done with members, and
 - (ii) the allocation in proportion to patronage made to non-member customers of the fiscal year.

Limitation by reference to capital employed

(3) Where the deduction of an amount under subsection 1 or 2 would result in the taxable income of the corporation for the fiscal year, before deduction of any amount under subsection 1 of section 37 in respect of business losses, being less than the amount by which,

(a) 3 per cent of the capital employed in the business at the commencement of the fiscal year, exceeds,

- (b) the interest, if any, paid on borrowed moneys, other than moneys borrowed from a bank or from a corporation or association described in clause *k* of subsection 42 of section 5, and deductible in computing the income of the corporation for the fiscal year,

the amount that may be deducted under this section is such as will leave the corporation with a taxable income before deduction of any amount under subsection 1 of section 37 in respect of business losses, equal to the excess.

(4) For the purposes of this section,

Interpre-
tation

- (a) "allocation in proportion to patronage" for a fiscal year means an amount credited by a corporation to a customer of that fiscal year on terms that the customer is entitled to or will receive payment thereof, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the corporation from, on behalf of or to the customer, whether as principal or as agent of the customer or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof,
- (i) if the amount was credited,
- (A) within the fiscal year or within twelve months thereafter, and
- (B) at the same rate in relation to quantity, quality or value aforesaid as the rate at which amounts were similarly credited to all other customers of that year who were members or to all other customers of that year, as the case may be, with appropriate differences aforesaid for different classes, grades or qualities, and
- (ii) if the prospect that amounts would be so credited was held forth by the corporation to its customers of that year who were members or non-member customers of that year, as the case may be;
- (b) "capital employed in the business" shall be computed in accordance with subsection 8, except that no deduction shall be made from capital in respect of borrowed moneys, other than moneys borrowed from a bank or from a corporation described in clause k of subsection 42 of section 5;
- (c) "customer" means a customer of a corporation and includes a person who sells or delivers goods or products to the corporation or for whom the corporation renders services;
- (d) "consumer goods or services" means goods or services the cost of which was not deductible by the corporation in computing the income from a business or property;
- (e) "income of the corporation attributable to business done with members" of any fiscal year means that proportion of the income of the corporation for the fiscal year, before making any deduction under this section, that the value of the goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for members, is of the total value of goods or products acquired, market-

ed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for all customers during the fiscal year;

- (f) "payment" includes,
- (i) the issue of a certificate of indebtedness or shares of the corporation or of a corporation of which the corporation is a subsidiary wholly-owned corporation if the corporation or that other corporation has in the fiscal year or within twelve months thereafter disbursed an amount of money equal to the aggregate face value of all certificates or shares so issued in the course of redeeming or purchasing certificates of indebtedness or shares of the corporation or that other corporation previously issued,
 - (ii) the application by the corporation of an amount to the liability of a member to the corporation, including, without restricting the generality of the foregoing, an amount applied in fulfilment of an obligation of the member to make a loan to the corporation and an amount applied on account of payment of shares issued to a member, pursuant to a by-law of the corporation, pursuant to statutory authority or at the request of the member, or
 - (iii) the amount of a payment or transfer by the corporation that under subsection 1 of section 27 is required to be included in computing the income of a member;
- (g) "member" means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the corporation or of another corporation of which the corporation is a subsidiary wholly-owned corporation; and
- (h) "non-member customer" means a customer who is not a member. R.S.O. 1960, c. 73, s. 50 (1-4).

Holding
forth
prospects of
allocations

(5) For the purpose of this section, the corporation shall be deemed to have held forth the prospect that amounts would be credited to a customer of a fiscal year by way of allocation in proportion to patronage,

- (a) if throughout the fiscal year the statute under which the corporation was incorporated or registered, its charter, articles of association or by-laws or its contract with the customer held forth the prospect that amounts would be so credited to customers who are members or non-member customers, as the case may be; or
- (b) if prior to the commencement of the fiscal year or prior to such other day as is prescribed for the class of business

in which the corporation is engaged, the corporation has published an advertisement in the prescribed form in a newspaper or newspapers of general circulation throughout the greater part of the area in which the corporation carried on business holding forth that prospect to customers who are members or non-member customers, as the case may be, and has filed copies of the newspaper or newspapers with the Minister before the end of the thirtieth day of the fiscal year or within thirty days from the prescribed day, as the case may be. R.S.O. 1960, c. 73, s. 50 (5); 1968, c. 20, s. 22 (1).

(6) For the purpose of subsection 3, "3 per cent of the capital employed in the business at the commencement of the fiscal year" Interpretation means, in any case where the fiscal year of the corporation is less than twelve months, that proportion of 3 per cent of the capital so employed at the commencement of the fiscal year that the number of days in the fiscal year is of 365.

(7) Where a payment has been received by a corporation in respect of an allocation in proportion to patronage, other than an allocation in respect of consumer goods or services, the amount thereof shall be included in computing the income of the recipient for the fiscal year in which the payment was received and, without restricting the generality of the foregoing, where a certificate of indebtedness or a share was issued to a person in respect of an allocation in proportion to patronage, the amount thereof shall be included in computing the income of the recipient for the fiscal year in which the certificate or share was received and not in computing his income for the fiscal year in which the indebtedness was subsequently discharged or the share was redeemed. Customer's income

(8) For the purpose of this section, "capital employed in the business" Interpretation means the capital at the beginning of the fiscal year and shall be computed in accordance with the following and is subject to the deductions or other adjustments provided in subsections 9 to 13:

1. So far as it consists of assets acquired by purchase on or after the incorporation of the corporation, the price at which those assets were acquired and, where the price of any asset has been satisfied otherwise than in cash, the value of the consideration actually given for that asset at the time the consideration was given shall be treated as the price at which such asset was acquired.
2. So far as it consists of assets being debts due to the corporation, the full amount of those debts subject to any deduction that has been allowed under this Act in respect thereof on account of bad debts.

3. So far as it consists of any other assets that have been acquired otherwise than by purchase as aforesaid, the value of the assets when they became assets of the corporation.
4. The amount of money or bank deposits that is actually used by the corporation in its business. R.S.O. 1960, c. 73, s. 50 (6-8).

Idem

(9) Capital employed in the business is subject to the following deductions:

1. Any sum contributed directly or indirectly by Canada or by any province of Canada towards the acquisition by the corporation of any asset referred to in subsection 8.
2. The total amount of depreciation that has been or should have been taken into account in accordance with this Act or any predecessor thereto plus any accumulated depreciation reserves at the commencement of this Act or any predecessor thereto recognized by the Minister for the purposes of this section, and in addition such amount on account of depletion as is deemed by the Minister to be fair and reasonable.
3. Any borrowed money and debts of the corporation, other than dividends declared but unpaid at the commencement of the fiscal year, except the amount of indebtedness represented by income bonds or income debentures, the interest on which is not allowed as a deduction under clause *f* of subsection 1 of section 24 or any provision under a former Act of like character and except the amount of indebtedness represented by a non-interest bearing advance from a corporation to its subsidiary that the Minister, in his sole discretion, determines to be in the nature of permanently invested capital.
4. Any investments the income from which is exempt or would be exempt from the tax imposed by section 5.
5. Any moneys, bank deposits, investments or other assets that are unproductive and are not required for the purposes of the business or that were not acquired for the purposes of the business. R.S.O. 1960, c. 73, s. 50 (9); 1968, c. 20, s. 22 (2, 3).

Idem

(10) Capital employed in the business,

- (a) shall be increased by a portion of any *bona fide* additions to the assets of the corporation or reduction in the liabilities of the corporation in the fiscal year; and

- (b) shall be decreased by a portion of any *bona fide* reduction in the assets of the corporation or addition to the liabilities of the corporation in the fiscal year, unless the increase or decrease results from profits or losses of the corporation in the fiscal year.

(11) The increase or decrease required by subsection 10 is that proportion of the addition or reduction, as the case may be, that the number of days in the fiscal year after the addition or reduction occurs bears to the number of days in the fiscal year. Idem

(12) Capital employed in the business shall be decreased by the amount of dividends paid in cash during the fiscal year to the extent of one-half of the amount by which the capital, calculated in accordance with subsections 8 and 9, at the commencement of the fiscal year is greater than the capital so calculated at the commencement of the next succeeding fiscal year. Idem

(13) Notwithstanding anything in this section, the computation of capital employed in the business may be revised to disregard the whole or any portion of capital values resulting from a transaction deemed not to have been arranged at arm's length. R.S.O. 1960, c. 73, s. 50 (10-13). Idem

Special Contributions by Corporations to Superannuation Funds

50.—(1) Where a corporation is an employer and has made a special payment in a fiscal year on account of an employees' superannuation or pension fund or plan in respect of past services of employees pursuant to a recommendation by a qualified actuary in whose opinion the resources of the fund or plan required to be augmented by an amount not less than the amount of the special payment to ensure that all the obligations of the fund or plan to the employees may be discharged in full, and has made the payment so that it is irrevocably vested in or for the fund or plan and the payment has been approved by the Minister, there may be deducted in computing the income of the corporation for the fiscal year the amount of the special payment. R.S.O. 1960, c. 73, s. 51 (1); 1968, c. 20, s. 23. Employer's
payment to
pension
plan

(2) For greater certainty and without restricting the generality of subsection 1, it is hereby declared that subsection 1 is applicable where the resources of a fund or plan required to be augmented by reason of an increase in the superannuation or pension benefits payable out of or under the fund or plan. R.S.O. 1960, c. 73, s. 51 (2). Application

Employees Profit Sharing Plan

51.—(1) In this Act, "employees profit sharing plan" means an arrangement under which payments computed by reference to Interpre-
tation

the profits from the business of a corporation or by reference to the profits from the business of a corporation and the profits, if any, from the business of a person with whom the corporation does not deal at arm's length are made by the corporation to a trustee in trust for the benefit of officers or employees of the corporation or of a person with whom the corporation does not deal at arm's length, whether or not payments are also made to the trustee by the officers or employees, and under which the trustee has, since the commencement of the plan or the end of 1949, whichever is later, each year allocated either contingently or absolutely to individual officers or employees,

- (a) all amounts received by him from the corporation or from a person with whom the corporation does not deal at arm's length; and
- (b) all profits from the trust property, computed without regard to any capital gain made by the trust or capital loss sustained by it at any time since the end of 1955,

in such manner that the aggregate of all such amounts and such profits minus such portion thereof as has been paid to beneficiaries under the trust is allocated either contingently or absolutely to officers or employees who are beneficiaries thereunder.

No tax while trust governed by a plan

(2) No tax is payable under section 5 on the taxable income of the trust for a fiscal year during which the trust was governed by an employees profit sharing plan.

Corporation's contribution to trust deductible

(3) An amount paid by a corporation to a trustee under an employees profit sharing plan during a fiscal year or within 120 days thereafter may be deducted in computing the income of the corporation for the fiscal year to the extent that it was not deductible in computing income for a previous fiscal year.

Payment out of profits

R.S.C. 1952, c. 148

(4) Where the terms of an arrangement under which a corporation makes payments to a trustee specifically provide that the payments shall be made "out of profits", such arrangement shall, if the corporation has so elected under subsection 7 of section 79 of the *Income Tax Act* (Canada), be deemed for the purpose of subsection 1 to be an arrangement for payments "computed by reference to the profit of the corporation from its business". R.S.O. 1960, c. 73, s. 52.

Fiscal year of trust

(5) Where an employees profit sharing plan is accepted for registration by the Minister as a deferred profit sharing plan, the fiscal year of the trust governed by the employees profit sharing plan shall be deemed to have ended immediately before the plan is deemed to have become registered as a deferred profit sharing plan pursuant to subsection 2 of section 53. 1961-62, c. 23, s. 17; 1968, c. 20, s. 24.

*Supplementary Unemployment Benefit Plan***52.**—(1) In this Act,

- (a) “registered supplementary unemployment benefit plan” means a supplementary unemployment benefit plan accepted by the Minister for registration for the purposes of this Act in respect of its constitution and operations for the fiscal year under consideration;

Interpretation
registered supplementary unemployment benefit plan

- (b) “supplementary unemployment benefit plan” means an arrangement, other than an arrangement in the nature of a superannuation or pension fund or plan or an employees profit sharing plan, under which payments are made by a corporation to a trustee in trust exclusively for the payment of periodic amounts to employees or former employees of the corporation who are or may be laid off for any temporary or indefinite period. 1968, c. 20, s. 25, *part*.

supplementary unemployment benefit plan

- (2) The Minister shall be deemed to have accepted for registration as a supplementary unemployment benefit plan under this Act every supplementary unemployment benefit plan that is accepted for registration by the Minister of National Revenue for Canada as a supplementary unemployment benefit plan under section 79A of the *Income Tax Act* (Canada). 1970, c. 69, s. 13, *part*.

Plan deemed accepted

R.S.C. 1952, c. 148

- (3) No tax is payable under section 5 upon the taxable income of the trust for a period during which the trust was governed by a registered supplementary unemployment benefit plan.

No tax while trust governed by plan

- (4) An amount paid by a corporation to a trustee under a registered supplementary unemployment benefit plan during a fiscal year or within thirty days thereafter may be deducted in computing the income of the corporation for the fiscal year to the extent that it was not deductible in computing income for a previous fiscal year. 1968, c. 20, s. 25, *part*.

Payments by corporation deductible

- (5) There shall be included in computing the income for a fiscal year of a corporation that, as an employer, has made any payment to a trustee under a supplementary unemployment benefit plan, any amount received by the corporation in the year as a result of an amendment to or modification of the plan or as a result of the termination or winding up of the plan. 1970, c. 69, s. 13, *part*.

Amounts received on amendment or winding up of plan

53.—(1) In this Act,

- (a) “deferred profit sharing plan” means a profit sharing plan accepted by the Minister for registration under this Act; and

Interpretation

- (b) "profit sharing plan" means an arrangement under which payments computed by reference to the profits of a corporation from its business or by reference to the profits from its business and the profits, if any, from the business of a person with whom the corporation does not deal at arm's length are or have been made by the corporation to a trustee in trust for the benefit of employees of that corporation or of any other person, whether or not payments are or have been also made to the trustee by the employees. 1961-62, c. 23, s. 18, *part*; 1968, c. 20, s. 26 (1, 2).

Acceptance
of plan for
registration

R.S.C. 1952,
c. 148

(2) The Minister shall be deemed to have accepted for registration as a deferred profit sharing plan under this Act every profit sharing plan that is deemed to be registered by the Minister of National Revenue for Canada as a deferred profit sharing plan under section 79C of the *Income Tax Act* (Canada), and such plan shall be deemed to have been registered by the Minister on the same date as it is deemed to be registered as a deferred profit sharing plan under subsection 4 of section 79C of the *Income Tax Act* (Canada). 1961-62, c. 23, s. 18, *part*; 1968, c. 20, s. 26 (3).

Revocation
of
registration

(3) The Minister shall be deemed to have revoked the registration of a profit sharing plan as a deferred profit sharing plan as and when the Minister of National Revenue for Canada revokes it under subsection 13 of section 79C of the *Income Tax Act* (Canada). 1961-62, c. 23, s. 18, *part*; 1968, c. 20, s. 26 (4).

Deferred
plan not
employees
profit
sharing plan

(4) For a fiscal year during which a plan is a deferred profit sharing plan, the plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan.

No tax
while trust
governed
by plan

(5) No tax is payable under section 5 on the taxable income of the trust for a fiscal year during which,

- (a) the trust was governed by a deferred profit sharing plan; and
- (b) not less than 90 per cent of the income of the trust for the fiscal year was from sources in Canada, and for the purpose of this clause contributions to or under the plan shall not be included in computing the income of the trust. 1961-62, c. 23, s. 18, *part*.

Amount of
corpora-
tion's con-
tribution
deductible

(6) There may be deducted in computing the income of a corporation for a fiscal year the aggregate of each amount paid by the corporation in the year or within 120 days after the end of the fiscal year, to a trustee under a deferred profit sharing plan for the benefit of employees of the corporation who are beneficiaries under the plan, not exceeding, however, in respect of each individual employee in respect of whom the amounts so paid by the corporation were paid by it, an amount equal to the least of,

- (a) the aggregate of each amount so paid by the corporation in respect of that employee;
- (b) \$1,500, minus the amount, if any, deductible under clause *n* of subsection 1 of section 23 in respect of that employee in computing the income of the corporation for the fiscal year; or
- (c) 20 per cent of the salary or wages paid in the year to the employee by the corporation,

to the extent that such amount was not deductible in computing the income of the corporation for a previous fiscal year. 1968, c. 20, s. 26 (5).

(7) Notwithstanding subsection 6, the amount that a corporation is entitled to deduct under subsection 6 in computing its income for a fiscal year shall be neither more nor less than the amount that it deducts and is allowed as a deduction in computing its income for the same fiscal year under subsections 7 and 8 of section 79C of the *Income Tax Act* (Canada).

Limitation
on
deduction

R.S.C. 1952,
c. 148

(8) Where funds or property of a trust governed by a deferred profit sharing plan have been appropriated in any manner whatsoever to or for the benefit of a corporation that is,

Appropriation of trust
by
corporation

- (a) an employer by whom payments are made in trust to a trustee under the plan; or
- (b) a corporation with whom that employer does not deal at arm's length,

otherwise than in payment of or on account of shares of the capital stock of either that employer or the corporation, as the case may be, purchased by the trust, the amount or value of the funds or property so appropriated shall be included in computing the income of the employer or the corporation, as the case may be, for the fiscal year in which the funds or property were so appropriated, unless such funds or property or an amount in lieu thereof equal to the amount or value of such funds or property were repaid to the trust within one year from the end of the fiscal year, and it is established by subsequent events or otherwise that the repayment was not made as part of a series of appropriations and repayments. 1961-62, c. 23, s. 18, *part.*

(9) Where the Minister is deemed to have revoked the registration of a profit sharing plan as a deferred profit sharing plan under subsection 3, the plan, hereinafter referred to as the "revoked plan", shall be deemed, for the purposes of this Act, not to be a deferred profit sharing plan, and, notwithstanding any other provision of this Act, the following rules shall apply:

Rules
applicable
to revoked
plan

1. Subsection 5 does not apply to exempt the trust governed by the plan from tax under section 5 upon the taxable income of the trust for a fiscal year in which, at any time therein, the trust was governed by the revoked plan.

2. No deduction shall be made by a corporation in computing its income for a fiscal year in respect of an amount paid by it under the plan at a time when it was a revoked plan.
3. There shall be included in computing the income of a corporation for a fiscal year the amount or value of any funds or property appropriated to or for the benefit of the corporation in the fiscal year that, by virtue of subsection 8, would have been so included if the revoked plan had been a deferred profit sharing plan at the time of the appropriation of the funds or property.
4. The revoked plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan. 1961-62, c. 23, s. 18, *part*; 1968, c. 20, s. 26 (6).

Payments
out of
profits

(10) Where the terms of an arrangement under which a corporation makes payments to a trustee specifically provide that the payments shall be made "out of profits", such arrangement shall be deemed, for the purpose of clause *b* of subsection 1, to be an arrangement for payments "computed by reference to the profits of a corporation from its business". 1961-62, c. 23, s. 18, *part*.

Amounts
included in
computing
policy-
holder's
income
R.S.C. 1952,
c. 148

54. Where a corporation to which the provisions of section 79D of the *Income Tax Act* (Canada) apply, it is hereby declared that the amount to be included in its income for the purposes of this section shall be the same as is required to be included for the purposes of section 79D of the *Income Tax Act* (Canada). 1970, c. 69, s. 14.

Undistributed Income

Undistri-
buted
income
on hand

55.—(1) Where funds or property of a corporation have, at a time when the corporation had undistributed income on hand, been distributed or otherwise appropriated in any manner whatsoever to or for the benefit of one or more of its shareholders on the winding-up, discontinuance or reorganization of its business, a dividend shall be deemed to have been received at that time by each shareholder equal to the lesser of,

- (a) the amount or value of the funds or property so distributed or appropriated to him; or
- (b) his portion of the undistributed income then on hand.

Deemed to
be dividend

(2) Where a corporation has, at a time when it had undistributed income on hand,

- (a) redeemed or acquired any of its common shares or reduced its common stock; or
- (b) converted any of its common shares into shares other than common shares or into some obligation of the corporation,

a dividend shall be deemed to have been received at that time by each of the persons who held any of the shares at that time equal to the lesser of,

- (i) the amount received or the value of that which was received by him for or in respect of the shares or the reduction or conversion, or
- (ii) his portion of the undistributed income then on hand.

(3) Where the whole or any part of the undistributed income on hand of a corporation has been capitalized, a dividend shall be deemed to have been received by each of the persons who held any of its shares immediately before the capitalization equal to the shareholder's portion of the undistributed income that was capitalized.

Undistributed
income
capitalized

(4) Where under this section a dividend has been deemed to have been received, the undistributed income on hand of the corporation paying it shall be deemed to have been reduced by the amount that the shareholders are so deemed to have received.

Undistributed
income
reduced

(5) Where a corporation has paid a stock dividend, the corporation shall for the purpose of subsection 3 be deemed to have capitalized immediately before the payment undistributed income on hand equal to the lesser of,

Stock
dividend

- (a) the undistributed income then on hand; or
- (b) the amount of the stock dividend.

(6) Except where the corporation is a non-resident corporation more than 50 per cent of the share capital of which having full voting rights under all circumstances belongs to non-residents, this section is applicable in computing the income of the shareholder for the purpose of this Part, whether or not the corporation had a permanent establishment in Canada. R.S.O. 1960, c. 73, s. 54 (1-6).

Non-resident
corporation

(7) Where a corporation has at any time increased its paid-up capital otherwise than by,

Where
paid-up
capital
increased

- (a) payment of a stock dividend; or
- (b) a transaction that has increased the assets of, or reduced the liabilities of, the corporation by an amount not less than the amount by which its paid-up capital has been increased,

the corporation shall, for the purpose of subsection 3, be deemed to have capitalized at that time undistributed income on hand equal to the lesser of,

- (c) the undistributed income then on hand; or

- (d) the amount by which the corporation's paid-up capital was so increased, minus the amount, if any, by which the assets of the corporation have been increased or the liabilities of the corporation have been reduced by virtue of the increase in its paid-up capital. R.S.O. 1960, c. 73, s. 54 (7); 1960-61, c. 14, s. 5.

Undistributed
income
on hand

56.—(1) In this Act, “undistributed income on hand” of a corporation at the end of or at any time in a specified fiscal year means the aggregate of the incomes of the corporation for the fiscal years beginning with the fiscal year that ended in 1917 and ending with the specified fiscal year minus the aggregate of the following amounts for each of those years:

1. Each loss sustained by the corporation for a fiscal year.
2. Each expense incurred or disbursement made by the corporation during one of those years that was not allowed as a deduction in computing income for one of those years under this Part, except,
 - (i) an expense incurred or a disbursement made in respect of the acquisition of property, including goodwill, or the repayment of loans or capital,
 - (ii) an outlay or expense the deduction of which was not allowed by reason of subsection 3 of section 24, or
 - (iii) unless the undistributed income on hand is being determined for the purpose of subsection 1 of section 55, any part of the payment referred to in section 50 that has not been allowed as a deduction in computing income of one of those years.
3. The amount by which all capital losses sustained by the corporation in those fiscal years exceeds all capital profits or gains made by the corporation in those fiscal years.
4. All amounts by which under other provisions of this Act the undistributed income on hand of the corporation has been deemed to have been reduced previous to the specified fiscal year.
5. Dividends paid by the corporation in those fiscal years except a dividend that was paid exclusively out of a surplus or accumulated profits on hand before the 1st day of January, 1917, and that was not taxable under the *Income War Tax Act* (Canada) as income of the recipient other than a dividend or any part of a dividend that is established to have been paid out of income for the fiscal year ending in 1917 that was earned before the 1st day of January, 1917, minus the aggregate of

amounts if any that were deductible by the shareholders in respect of the dividends under the regulations made under subsection 3 of section 23 or that would have been so deductible if the shareholders had been taxable under section 5 for the fiscal year in which the dividends were received.

6. Premiums determined in the manner provided by subsection 3 paid by the corporation on redemption or acquisition of any of its shares other than common shares.

(2) A shareholder's portion of undistributed income on hand of a corporation at any time, or any portion thereof, means the amount that would have been payable to him on the winding-up of the corporation at that time if the subscribed capital had been repaid and what remained to be distributed on the winding-up were an amount equal to the undistributed income on hand at that time, or the portion of it, as the case may be.

Shareholder's portion

(3) For the purpose of this section, a share has been redeemed or acquired at a premium if the amount payable by the corporation in respect of the redemption or acquisition exceeds,

Premiums on redemption or acquisition of capital stock

- (a) the par value of the share, if it had a par value; or
- (b) if the share had no par value, the proportion of the paid-up capital of the corporation, immediately before the redemption or acquisition of the share, with respect to the class of shares to which the share belongs that 1 is of the number of issued shares of the class immediately before the redemption or acquisition of the share,

and the premium is the amount of the excess.

(4) Notwithstanding anything contained in subsection 1, the undistributed income of a life insurance corporation on hand at any time means the amount that is at the credit of its shareholders' account at that time.

Life insurance corporations

(5) For the purpose of paragraph 1 of subsection 1, "loss" for a fiscal year means a loss computed by applying *mutatis mutandis* the provisions of this Part respecting the computation of the income of the corporation.

Interpretation

(6) Where subsection 1 is being applied to determine the undistributed income on hand of a corporation at a specified time in a fiscal year after a dividend has been deemed by section 55 to have been received from the corporation in the fiscal year, the undistributed income on hand at the specified time is the undistributed income on hand of the corporation determined in accordance with the terms of subsection 1 minus the amount of the dividends that have been so deemed to have been received from the corporation at a previous time in the fiscal year.

Determination

Idem

(7) Where in the case of a corporation referred to in subsection 23 of section 58 as a "predecessor corporation" subsection 1 is being applied to determine the undistributed income of the corporation on hand at any specified time after such time after 1954 as all or substantially all of the property of the corporation described in subsection 23 of section 58 has been acquired as described in that subsection, there shall not be included in the amount or amounts deductible under any paragraph of subsection 1 any amount in respect of expenses incurred by the corporation included in the aggregate determined under clause c of subsection 23 of section 58.

Interpretation

(8) For the purpose of paragraph 3 of subsection 1,

- (a) where depreciable property of a corporation as defined by subsection 4 of section 32 has been disposed of in 1949 or a subsequent fiscal year, the capital loss arising from the disposition shall be deemed not to be more than the actual capital cost of the property to the corporation minus the capital cost thereof as determined for the purpose of section 32; and
- (b) where depreciable property of a corporation as defined by subsection 4 of section 32 has been disposed of in 1949 or a subsequent fiscal year, the capital profit or gain arising from the disposition shall be deemed not to be more than the proceeds of the disposition as defined in that subsection minus the capital cost of the property to the corporation as determined for the purpose of section 32.

Idem

(9) Where in the calculation of the undistributed income on hand of a corporation at any time there have been included in,

- (a) computing the amount determined by paragraph 5 of subsection 1; or
- (b) computing the amount by which the undistributed income on hand is deemed to be reduced by virtue of subsection 4 of section 55,

amounts that were not included in computing the income of the shareholders but that would have been so included if it were not for section 39, and the aggregate of those amounts exceeds the aggregate of the incomes of the corporation that were by section 39 deemed to have been distributed to its shareholders, the undistributed income of the corporation on hand at that time shall be deemed to be the amount that it would be if the aggregate of the deductions permitted by paragraphs 1 to 5 of subsection 1 were reduced by an amount equal to the excess. R.S.O. 1960, c. 73, s. 55 (1-9).

(10) In the computation of a loss for the purpose of paragraph 1 of subsection 1, there shall not be included a loss sustained by a corporation in its farming business for a fiscal year in respect of which the Minister has determined under section 25 that the chief source of income of the corporation is neither farming nor a combination of farming and some other source of income except to the extent that the loss has been deducted in computing taxable income for a fiscal year under paragraph 3 of subsection 1 of section 37. R.S.O. 1960, c. 73, s. 55 (10); 1968, c. 20, s. 27 (1). Farming loss

(11) Where the Minister has determined under section 25 that the chief source of income of a corporation for a fiscal year is neither farming nor a combination of farming and some other source of income, no expense or disbursement shall be included in the amount deductible under paragraph 2 of subsection 1 if the amount thereof is included in the computation of a loss sustained by the corporation for the fiscal year in its farming business. R.S.O. 1960, c. 73, s. 55 (11); 1968, c. 20, s. 27 (2). Idem

(12) For the purpose of computing the undistributed income on hand of a corporation under subsection 1, the income of the corporation for a fiscal year shall, if subsection 4 of section 57 was applicable in the computation thereof, be deemed to be the amount that it would have been if subsection 4 of section 57 had not been applicable. Mining income

(13) Where more than 50 per cent of the issued share capital of a corporation has, between a time when the corporation ceased to carry on active business and a time when it commenced to carry on active business again, been acquired by a person or persons who did not own any of the shares in the corporation at the time when it so ceased to carry on active business, if the corporation had no undistributed income on hand at the latter time, the reference in subsection 1 to "the fiscal year that ended in 1917" shall be deemed to be a reference to the fiscal year in which the corporation so commenced to carry on active business again. Control acquired of inactive business

(14) A person who has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares in a corporation shall be deemed for the purpose of subsection 13 to have acquired the shares at the time he acquired the right. Acquisition of shares

(15) Where all of the assets and liabilities of an insurance corporation incorporated under or pursuant to the laws of a province, hereinafter in this subsection referred to as the "old corporation", have at a time when the corporation had undistributed income on hand been acquired by an insurance corporation incorporated under or pursuant to an Act of the Parliament of Canada, hereinafter in this subsection referred to as the "new corporation", under an arrangement whereby it is contemplated that the new corporation will carry on the business formerly Insurance corporations

carried on by the old corporation, and the paid-up capital of the new corporation was not, at the time of the acquisition of such assets and liabilities, less than the paid-up capital of the old corporation at that time,

- (a) the amount of the dividend deemed by section 55 to have been received at that time by each of the persons who held any of the shares of the old corporation at that time shall be deemed to be the amount otherwise so deemed to have been received at that time by each such person minus the amount paid up on the shares of the old corporation so held by him; and
- (b) the undistributed income of the new corporation on hand immediately after that time as determined under subsection 1 shall be deemed to be the amount otherwise determined thereunder plus the amount of the undistributed income of the old corporation on hand immediately before that time. R.S.O. 1960, c. 73, s. 55 (12-15).

Mining

Interpre-
tation

57.—(1) In this section,

- (a) “minerals” does not include petroleum or natural gas;
- (b) “mining property” means a right to prospect, explore or mine for minerals or a property the principal value of which depends upon its mineral content;
- (c) “prospector” means an individual who prospects or explores for minerals or develops a property for minerals on behalf of himself, on behalf of himself and others, or as an employee. R.S.O. 1960, c. 73, s. 56 (1).

Amount not
included in
income

(2) An amount that would otherwise be included in computing the income for a fiscal year of a corporation that has, either under an arrangement with the prospector made before the prospecting, exploration or development work or as employer of the prospector, advanced money for, or paid part or all of, the expenses of prospecting or exploring for minerals or of developing a property for minerals, shall not be included in computing the income of the corporation for the fiscal year if it is the consideration for,

- (a) an interest in a mining property acquired under the arrangement under which the corporation made the advance or paid the expenses, or, if the prospector was the employee of the corporation, acquired by the corporation through the employee's efforts; or
- (b) shares of the capital stock of another corporation received by the corporation in consideration for property described in clause *a* that the corporation has disposed of to the corporation issuing the shares,

unless it is an amount received by the corporation in the fiscal year as or on account of a rent, royalty or similar payment. 1966, c. 30, s. 8.

(3) Clause *b* of subsection 2 does not apply,

Non-application

- (a) in the case of a corporation that disposes of the shares while or after carrying on a campaign to sell the shares of the issuing corporation to the public; or
- (b) to shares acquired by the exercise of an option to purchase shares received as consideration for property described in clause *a* of subsection 2.

(4) Subject to the prescribed conditions, there shall not be included in computing the income of a corporation income derived from the operation of a mine during the period of thirty-six months commencing with the day on which the mine came into production. R.S.O. 1960, c. 73, s. 56 (3, 4).

Exemption for three years

(5) In subsection 4,

Interpretation

- (a) "mine" does not include an oil well, gas well, brine well, sand pit, gravel pit, clay pit, shale pit or stone quarry (other than a deposit of oil shale or bituminous sand), but does include a well for the extraction of material from a sylvite deposit and all such wells, the material produced from which is sent to a single plant for processing, shall be deemed to be one mine; and
- (b) "production" means production in reasonable commercial quantities. R.S.O. 1960, c. 73, s. 56 (5); 1967, c. 15, s. 7.

Exploration, Prospecting and Development Expenses

58.—(1) A corporation the principal business of which is production, refining or marketing of petroleum, petroleum products or natural gas or exploring or drilling for petroleum or natural gas may deduct in computing its income under this Part for a fiscal year the lesser of,

Deduction from income of petroleum or natural gas corporations

- (a) the aggregate of such of the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada as were incurred during the calendar years 1949 to 1952, to the extent that they were not deductible in computing income for a previous fiscal year; or
- (b) of that aggregate, an amount equal to the income of the corporation for the fiscal year,
 - (i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and
 - (ii) if no deduction were allowed under this section,

minus the deductions allowed for the fiscal year by subsections 23 and 27 of this section and by subsection 1 of section 38. R.S.O. 1960, c. 73, s. 57 (1); 1962-63, c. 26, s. 8 (1).

Deduction
from income
of mining
corporations

(2) A corporation the principal business of which is mining or exploring for minerals may deduct in computing its income under this Part for a fiscal year the lesser of,

- (a) the aggregate of such of the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada as were incurred during the calendar year 1952, to the extent that they were not deductible in computing income of a previous fiscal year; or
- (b) of that aggregate an amount equal to its income for the fiscal year,
 - (i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and
 - (ii) if no deduction were allowed under this section,

minus the deductions allowed for the fiscal year by subsections 23 and 27 of this section and by subsection 1 of section 38,

if the corporation has filed certified statements of such expenses and has satisfied the Minister that it has been actively engaged in prospecting and exploring for minerals in Canada by means of qualified persons and has incurred these expenses for such purposes. R.S.O. 1960, c. 73, s. 57 (2); 1962-63, c. 26, s. 8 (2); 1968, c. 20, s. 28 (1).

Deduction
from income
of petroleum
or natural
gas
corporations
or mining
corporations

(3) A corporation the principal business of which is,

- (a) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas; or
- (b) mining or exploring for minerals,

may deduct in computing its income under this Part for a fiscal year the lesser of,

- (c) the aggregate of such of,
 - (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada, and
 - (ii) the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada,

as were incurred after the calendar year 1952 and before the 11th day of April, 1962 to the extent that they were not deductible in computing income for a previous fiscal year; or

(d) of that aggregate, an amount equal to its income for the fiscal year,

(i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and

(ii) if no deduction were allowed under this section,

minus the deductions allowed for the fiscal year by subsections 1, 2, 23 and 27 of this section and by subsection 1 of section 38. R.S.O. 1960, c. 73, s. 57 (3); 1962-63, c. 26, s. 8 (3, 4).

(4) A corporation, other than a corporation described in subsection 3, the principal business of which is production or marketing of sodium chloride or potash or the business of which includes manufacturing products the manufacturing of which involves processing sodium chloride or potash, may deduct, in computing its income under this Part for a fiscal year, the drilling and exploration expenses incurred by it in the fiscal year on or in respect of exploring or drilling for halite or sylvite. 1960-61, c. 14, s. 6.

Halite or
sylvite
drilling and
exploration
expenses

(5) A corporation the principal business of which is,

(a) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas;

Deduction
from
income of
petroleum
corporation,
etc.

(b) mining or exploring for minerals;

(c) processing mineral ores for the purpose of recovering metals therefrom;

(d) a combination of,

(i) processing mineral ores for the purpose of recovering metals therefrom, and

(ii) processing metals recovered from the ores so processed;

(e) fabricating metals; or

(f) operating a pipe line for the transmission of oil or natural gas,

may deduct, in computing its income under this Part for a fiscal year, the lesser of,

(g) the aggregate of such of,

(i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada, and

(ii) the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada,

as were incurred after the 10th day of April, 1962, and before the end of the fiscal year, to the extent that they were not deductible in computing income for a previous fiscal year; or

- (h) of that aggregate, an amount equal to its income for the fiscal year,

(i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and

(ii) if no deduction were allowed under this section,

minus the deductions allowed for the fiscal year by subsections 1, 2, 3, 22, 23 and 27 of this section and by subsection 1 of section 38. 1962-63, c. 26, s. 8 (5), *part*; 1964, c. 11, s. 11 (1).

Application
to pipe line
corporations

(6) In its application to any corporation described in clause *f* of subsection 5, clause *g* of subsection 5 shall be read and construed as though there were substituted for the expression "10th day of April, 1962", where it appears therein, the expression "13th day of June, 1963". 1964, c. 11, s. 11 (2).

Joint
exploration
corporation
may
renounce
expenses

(7) A joint exploration corporation may, in a fiscal year, elect in prescribed form to renounce in favour of another corporation described in subsection 5 an agreed portion of the aggregate of such of,

- (a) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by the joint exploration corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada; and

- (b) the prospecting, exploration and development expenses incurred by the joint exploration corporation in searching for minerals in Canada,

as were incurred by the joint exploration corporation, during a period, after the calendar year 1956 and before the 11th day of April, 1962, throughout which the other corporation was a shareholder corporation, to the extent that the aggregate of such expenses exceeds any amount deductible under subsection 3 in respect thereof by the joint exploration corporation in computing its income for any fiscal year previous to the year in which the election was made, and upon the election the said agreed portion,

- (c) shall be deemed, for the purpose of subsection 5, to be expenses described in clauses *a* and *b* incurred by the other corporation in the fiscal year of the corporation in which the election was made; and

- (d) shall be subtracted from the aggregate described in clause *c* of subsection 3 in determining the amount deductible by the joint exploration corporation under subsection 3 in computing its income.

(8) A joint exploration corporation may, in a fiscal year, elect ^{Idem} in prescribed form to renounce in favour of another corporation described in subsection 5 an agreed portion of the aggregate of such of,

- (a) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by the joint exploration corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada; and
- (b) the prospecting, exploration and development expenses incurred by the joint exploration corporation in searching for minerals in Canada,

as were incurred by the joint exploration corporation during a period, after the 10th day of April, 1962, and before the end of the fiscal year, throughout which the other corporation was a shareholder corporation, to the extent that the aggregate of such expenses exceeds any amount deductible under subsection 5 in respect thereof by the joint exploration corporation in computing its income for any taxation year previous to the year in which the election was made, and upon the election the said agreed portion,

- (c) shall be deemed, for the purpose of subsection 5, to be expenses described in clauses *a* and *b* incurred by the other corporation in the fiscal year of the corporation in which the election was made; and
- (d) shall be subtracted from the aggregate described in clause *g* of subsection 5 in determining the amount deductible by the joint exploration corporation under subsection 5 in computing its income.

(9) For the purposes of subsections 7 and 8,

Inter-
pretation

- (a) "joint exploration corporation" means a corporation,
 - (i) whose principal business is of a class described in clause *a* or *b* of subsection 3, and
 - (ii) that has not at any time since its incorporation had more than ten shareholders, not including any individual holding a share for the sole purpose of qualifying as a director;
- (b) a "shareholder corporation" of a joint exploration corporation means a corporation that for the period in respect of which the expression is being applied,
 - (i) was a shareholder of the joint exploration corporation,
 - (ii) was a corporation whose principal business was of the class described in subsection 5, and

(iii) made payments to the joint exploration corporation in respect of the expenses incurred by the joint exploration corporation referred to in clauses *a* and *b* of subsection 7 or 8, as the case may be; and

(c) "agreed portion" in respect of a corporation that was a shareholder corporation of a joint exploration corporation means such amount as may be agreed upon between the joint exploration corporation and the other corporation not exceeding,

(i) the payments referred to in subclause iii of clause *b* made by the other corporation to the joint exploration corporation during the period it was a shareholder corporation in respect of the expenses incurred by the joint exploration corporation referred to in clauses *a* and *b* of subsection 7 or 8, as the case may be,

minus,

(ii) the aggregate of the amounts, if any, previously renounced by the joint exploration corporation under subsection 7 or 8, as the case may be, in favour of the other corporation. 1962-63, c. 26, s. 8 (5), *part*.

Deduction
from
income of
corporation

(10) A corporation, other than a corporation described in subsection 5, may deduct, in computing its income under this Part for a fiscal year, the lesser of,

(a) the aggregate of such of,

(i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada, and

(ii) the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada,

as were incurred after the 10th day of April, 1962, and before the end of the fiscal year, to the extent that they were not deductible in computing income for a previous fiscal year; or

(b) of that aggregate, an amount equal to the aggregate of,

(i) its income for the fiscal year from operating an oil or gas well in Canada in which the corporation has an interest,

(ii) its income for the fiscal year from royalties in respect of an oil or gas well in Canada, and

(iii) any amount included in computing its income for the taxation year by virtue of subsection 16,

if no deductions were allowed under clause *b* of subsection 2 of section 23. 1966, c. 30, s. 9 (1).

(11) In computing a deduction under subsection 1 or 3, no amount shall be included in respect of a payment for or in respect of a right, licence or privilege to explore for, drill for or take petroleum or natural gas, acquired before the 11th day of April, 1962, other than an annual payment not exceeding \$1 per acre. 1964, c. 11, s. 11 (3).

Limitation
re payments
for exploration
and
drilling
rights

(12) Where a corporation has, after the 10th day of April, 1962, acquired under an agreement or other contract or arrangement a right, licence or privilege to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal, under which agreement, contract or arrangement there was not acquired any other right to, over or in respect of the land in respect of which such right, licence or privilege was so acquired except the right,

Exploration
and drilling
rights,
payments
deductible

- (a) to explore for, drill for or take materials and substances, whether liquid or solid and whether hydrocarbons or not, produced in association with the petroleum, natural gas or other related hydrocarbons, except coal, or found in any water contained in an oil or gas reservoir; or
- (b) to enter upon, use and occupy so much of the land as may be necessary for the purpose of exploiting such right, licence or privilege,

an amount paid in respect of the acquisition thereof shall, for the purposes of subsections 5, 8 and 10, be deemed to be a drilling or exploration expense on or in respect of exploring or drilling for petroleum or natural gas in Canada incurred at the time of such payment.

(13) In its application for the purposes of subsection 8, subsection 12 shall be read and construed as though there were substituted for the expression "after the 10th day of April, 1962", where that expression appears therein, the expression "after the 10th day of April, 1962, and before the 27th day of April, 1965". 1966, c. 30, s. 9 (2).

Idem

(14) Where a right, licence or privilege to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal, is disposed of after the 10th day of April, 1962 and before the 23rd day of October, 1968,

Receipts for
exploration
or drilling
rights
included in
income

- (a) by a corporation described in subsection 5; or
- (b) by a corporation, other than a corporation described in subsection 5, that was at the time of acquisition of such right, licence or privilege a corporation described in subsection 5,

any amount received by the corporation as consideration for the disposition thereof shall be included in computing its income for its fiscal year in which the amount was received unless the corporation acquired such right, licence or privilege before the 11th day of April, 1962, and disposed of it before the 9th day of November, 1962. 1966, c. 30, s. 9 (3); 1970, c. 69, s. 15 (1).

Idem (15) Where a right, licence or privilege described in subsection 14 was disposed of after the 22nd day of October, 1968,

- (a) by a corporation described in subsection 5; or
- (b) by a corporation, other than a corporation described in subsection 5, that was at the time of acquisition of such right, licence or privilege a corporation described in subsection 5,

the amount receivable by the corporation as consideration for the disposition thereof shall be included in computing its income for its fiscal year in which the disposition was made, notwithstanding that the amount or any part thereof may not be received until a subsequent fiscal year.

Idem (16) Where a right, licence or privilege to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal, that was acquired after the 10th day of April, 1962, by a corporation other than a corporation described in subsection 5 is subsequently disposed of,

- (a) before the 23rd day of October, 1968, any amount received by the corporation as consideration for the disposition thereof shall be included in computing its income for the fiscal year of the corporation in which the amount was received; or
- (b) after the 22nd day of October, 1968, the amount receivable by the corporation as consideration for the disposition thereof shall be included in computing its income for the fiscal year of the corporation in which the disposition was made, notwithstanding that the amount or any part thereof may not be received until a subsequent fiscal year.

Idem (17) Subsections 14, 15 and 16 do not apply to any disposition by a corporation of any right, licence or privilege described in subsection 12 or 14 unless such right, licence or privilege was acquired by the corporation under an agreement, contract or arrangement described in subsection 12. 1970, c. 69, s. 15 (2).

Idem (18) For the purposes of subsections 14, 15 and 16,

- (a) where a corporation has disposed of any interest in land that includes a right, licence or privilege described in subsection 12 that was acquired under an agreement, contract or arrangement described in that subsection,

the proceeds of disposition of such interest shall be deemed to be proceeds of disposition of the right, licence or privilege; and

- (b) where a corporation has acquired a right, licence or privilege described in subsection 12 under an agreement, contract or arrangement described in that subsection and subsequently disposes of any interest,

- (i) in such right, licence or privilege, or
- (ii) in the production of wells situated on the land to which such right, licence or privilege relates,

the proceeds of disposition of such interest shall be deemed to be the proceeds of disposition of the right, licence or privilege. 1962-63, c. 26, s. 8 (6), *part*; 1970, c. 69, s. 15 (3).

(19) Subsections 10 and 16 do not apply in computing the ^{Idem} income for a fiscal year under this Part of a corporation the business of which includes trading or dealing in rights, licences or privileges to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal. 1966, c. 30, s. 9 (4), *part*.

(20) Notwithstanding subsection 11, where a corporation the ^{Bonus payments} principal business of which is of the class described in clause *a* or *b* of subsection 3 has after 1952 paid an amount, other than a rental or royalty, to the Government of Canada or of a province for,

- (a) the right to explore for petroleum or natural gas on a specified parcel of land in Canada, which right is, for greater certainty, declared to include a right of the type commonly referred to as a "licence", "permit" or "reservation"; or
- (b) a legal lease of the right to take or remove petroleum or natural gas from a specified parcel of land in Canada,

and acquired the rights, before the 11th day of April, 1962, in respect of which the amount was so paid and the corporation has, before any well came into production on the land in reasonable commercial quantities, surrendered all the rights so acquired, including, in respect of a right of the kind described in clause *a*, all rights thereunder to any lease and all rights under any lease made thereunder, without receiving any consideration therefor or repayment of any part of the amount so paid, the amount so paid shall, for the purpose of subsection 5 or 8, be deemed to have been an expense incurred by the corporation as a drilling or exploration expense on or in respect of exploring or drilling for petroleum or natural gas in Canada during the fiscal year in which its rights were so surrendered. R.S.O. 1960, c. 73, s. 57 (5); 1962-63, c. 26, s. 8 (7); 1968-69, c. 19, s. 15.

Expenses
incurred for
specified
considera-
tions not
deductible

(21) For the purpose of this section, it is hereby declared that expenses incurred by a corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada or in searching for minerals in Canada do not and never did include expenses so incurred by that corporation pursuant to an agreement under which it undertook to incur those expenses in consideration for,

- (a) shares of the capital stock of a corporation that owned or controlled the mineral rights;
- (b) an option to purchase shares of the capital stock of a corporation that owned or controlled the mineral rights; or
- (c) a right to purchase shares of the capital stock of a corporation that was to be formed for the purpose of acquiring or controlling the mineral rights. R.S.O. 1960, c. 73, s. 57 (6).

Exception

(22) Notwithstanding subsection 21, a corporation the principal business of which is,

- (a) production, refining or marketing of petroleum, petroleum products or natural gas and exploring or drilling for petroleum or natural gas; or
- (b) mining or exploring for minerals,

may deduct in computing its income under this Part for a fiscal year the lesser of,

- (c) the aggregate of such of,
 - (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada, and
 - (ii) the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada,

as were incurred after the calendar year 1953 and before the end of the fiscal year,

- (iii) pursuant to an agreement under which it undertook to incur those expenses for a consideration mentioned in clause a, b or c of subsection 21, and
- (iv) to the extent that they were not deductible in computing income for a previous fiscal year; or
- (d) of that aggregate, an amount equal to its income for the fiscal year,
 - (i) if no deduction were allowed under clause b of subsection 2 of section 23, and
 - (ii) if no deduction were allowed under subsection 5 or this subsection,

minus any deduction allowed for the fiscal year by subsection 1 of section 38,

but where a corporation has incurred expenses the deduction of which from income for a fiscal year is authorized by this subsection, no deduction in respect of those expenses may be made under this section in computing the income of any other corporation for that or any other fiscal year. R.S.O. 1960, c. 73, s. 57 (7); 1962-63, c. 27, s. 8 (8).

(23) Notwithstanding subsection 22, where a corporation, hereinafter in this subsection and in subsection 24 referred to as the "successor corporation", the principal business of which is, Property acquired by successor corporation

- (a) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas; or
- (b) mining or exploring for minerals,

has, at any time after 1954, acquired from a corporation, hereinafter in this subsection and in subsection 24 referred to as the "predecessor corporation", the principal business of which was production, refining or marketing of petroleum, petroleum products or natural gas, exploring or drilling for petroleum or natural gas, or mining or exploring for minerals, all or substantially all of the property of the predecessor corporation used by it in carrying on that business in Canada, there may be deducted by the successor corporation in computing its income under this Part for a fiscal year the lesser of,

- (c) the aggregate of,
 - (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by the predecessor corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada, and
 - (ii) the prospecting, exploration and development expenses incurred by the predecessor corporation in searching for minerals in Canada,

to the extent that such expenses,

- (iii) were not deductible by the successor corporation in computing its income for a previous fiscal year and were not deductible by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation or its income for a previous fiscal year, and
- (iv) would, but for the provisions of clause *b* of subsection 1, clause *b* of subsection 2, clause *d* of subsection 3, clause *h* of subsection 5 and clause *d* of

subsection 22, or of any of those clauses or this subsection, have been deductible by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation; or

- (d) of that aggregate, an amount equal to such part of its income for the year,
 - (i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and
 - (ii) if no deduction were allowed under this section,

minus any deduction allowed for the fiscal year by subsection 1 of section 38, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property from which the predecessor corporation had, immediately before the acquisition by the successor corporation of the property so acquired, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and, in respect of any such expenses included in the aggregate determined under clause *c*, no deduction may be made under this section by the predecessor corporation in computing its income for a fiscal year subsequent to the fiscal year in which the property so acquired was acquired by the successor corporation. R.S.O. 1960, c. 73, s. 57 (8); 1961-62, c. 23, s. 19 (1), cls. (*a*, *b*); 1962-63, c. 26, s. 8 (9-11).

Application
of subs. 23

(24) In applying the provisions of subsection 23 to determine the amount that may be deducted by a successor corporation in computing its income under this Part for a fiscal year, where the predecessor corporation has paid an amount other than a rental or royalty to the government of Canada or of a province for,

- (a) the right to explore for petroleum or natural gas on a specified parcel of land in Canada which right is, for greater certainty, declared to include a right of the type commonly referred to as a "licence", "permit" or "reservation"; or
- (b) a legal lease of the right to take or remove petroleum or natural gas from a specified parcel of land in Canada,

if, before the predecessor corporation was entitled, by virtue of subsection 20, to any deduction in computing its income for a fiscal year in respect of the amount so paid, the property of the predecessor corporation was acquired by the successor corporation before the 11th day of April, 1962 in the manner set out in subsection 23, and the successor corporation did, before any well came into production in reasonable commercial quantities, on the

land referred to in clause *a* or *b* surrender all the rights so acquired by the predecessor corporation including, in respect of a right of the kind described in clause *a*, all rights thereunder to any lease and all rights under any lease made thereunder without receiving any consideration therefor or payment of any part of the amount so paid by the predecessor corporation, the amount so paid by the predecessor corporation shall be added to the amount determined under clause *c* of subsection 23. 1961-62, c. 23, s. 19 (2); 1962-63, c. 26, s. 8 (12).

(25) A reference in subsection 3, 20, 22 or 23 to a corporation, the principal business of which is mining or exploring for minerals, shall, for the purposes of this section and subsection 7 of section 56, be deemed to include a reference to a corporation, the principal business of which is, Processing corporations

- (a) processing mineral ores for the purpose of recovering metals therefrom;
- (b) a combination of,
 - (i) processing mineral ores for the purpose of recovering metals therefrom, and
 - (ii) processing metals recovered from the ores so processed; or
- (c) fabricating metals,

but, in making applicable this section and subsection 7 of section 56 to any such corporation, there shall be substituted,

- (d) for the references, respectively, in subsections 3, 20, 22 and 23 to the years 1952, 1952, 1953, and 1954, a reference in each case to the year 1956; and
- (e) for the reference in subsection 7 of section 56 to the year 1954, a reference to the year 1956. 1961-62, c. 23, s. 19 (3).

(26) For the purposes of this section and section 66, "drilling and exploration expenses" incurred on or in respect of exploring or drilling for petroleum or natural gas in Canada includes expenses incurred on or in respect of, Extended meaning of "drilling and exploration expenses"

- (a) drilling or converting a well for the disposal of waste liquids from a petroleum or natural gas well in Canada;
- (b) drilling for water or gas for injection into a petroleum or natural gas formation in Canada; and
- (c) drilling or converting a well for the injection of water or gas to assist in the recovery of petroleum or natural gas from another well in Canada. R.S.O. 1960, c. 73, s. 57 (10).

Property
acquired
by second
successor
corporation

(27) Notwithstanding subsection 22, where a corporation, hereinafter in this subsection referred to as the "second successor corporation", whose principal business is of the class described in subsection 5, has at any time after the 10th day of April, 1962, acquired from a corporation, hereinafter in this subsection referred to as the "first successor corporation", that was a successor corporation within the meaning of subsection 23, all or substantially all of the property of the first successor corporation used by it in carrying on in Canada its principal business, there may be deducted by the second successor corporation, in computing its income under this Part for a fiscal year, the lesser of,

- (a) the aggregate determined by adding the expenses referred to in subclauses i and ii of clause c of subsection 23 for the purpose of determining the deduction allowable to the first successor corporation under subsection 23 in computing its income for a previous fiscal year, to the extent that such expenses,
 - (i) were not deductible by the second successor corporation or any other corporation in computing its income for a previous fiscal year, and were not deductible by the first successor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the second successor corporation, and
 - (ii) would, but for the provisions of clause d of subsection 23, have been deductible by the first successor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the second successor corporation; or
- (b) of that aggregate, an amount equal to such part of its income for the fiscal year,
 - (i) if no deduction were allowed under clause b of subsection 2 of section 23, and
 - (ii) if no deduction were allowed under this section,

minus any deduction allowed for the fiscal year by subsection 1 of section 38, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property from which the predecessor of the first successor corporation within the meaning of subsection 23 had, immediately before the acquisition by the first successor corporation of the property so acquired by the second successor corporation, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and, in respect of any such expenses included in the aggregate determined under clause *a*, no deduction may be made under this section by the first successor corporation in computing its income for a fiscal year subsequent to its fiscal year in which the property so acquired was acquired by the second successor corporation. 1962-63, c. 26, s. 8 (13).

(28) For the purpose of this section and section 66, there shall be deducted in computing,

- (a) drilling and exploration expenses incurred by a corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada; and
- (b) prospecting, exploration and development expenses incurred by a corporation in searching for minerals in Canada,

Extended meaning of drilling and exploration expenses and prospecting, exploration and development expenses

subject to the approval of the Minister, any amount paid to the corporation under the *Northern Mineral Exploration Assistance Regulations* (Canada) made under an *Appropriation Act* (Canada) that provides for payments in respect of the Northern Mineral Grants Program, and there shall be included in computing such expenses, any amount, except an amount in respect of interest, paid by the corporation under the *Northern Mineral Exploration Assistance Regulations* (Canada) to Her Majesty in right of Canada. 1968, c. 20, s. 28 (2).

(29) For the purposes of this section and section 66, "drilling and exploration expenses" incurred on or in respect of exploring or drilling for petroleum or natural gas in Canada includes an annual payment made for the preservation of a right, licence or privilege described in subsection 12. 1966, c. 30, s. 9 (4), *part*.

Drilling and exploration expenses

(30) Where a corporation has incurred expenses that may be deducted from income under more than one provision of this section, it is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction.

General limitation

(31) Where expenses are or have been under this section or corresponding sections of Acts referred to in subsection 12 of section 83A of the *Income Tax Act* (Canada) deductible from or in computing the income of the corporation, or where any amount is or has been deductible in respect of the expenses under any of those provisions from taxes otherwise payable, it is hereby declared that no amount in respect of the same expenses is or has been deductible under any other authority in computing the income or from the income of that corporation or any other corporation for that fiscal year or any other fiscal year. R.S.O. 1960, c. 73, s. 57 (11, 12).

Expenses deductible under certain enactments deemed not otherwise deductible R.S.C. 1952, c. 148

Crown Corporations

Application
of Act to
certain cor-
porations

59.—(1) Where a corporation to which the exemptions provided by subsection 42 of section 5 and the specially reduced tax provided by subsection 18 of section 6 would otherwise apply is prescribed by regulation, such exemptions and specially reduced tax do not apply. R.S.O. 1960, c. 73, s. 58 (1); 1968-69, c. 18, s. 8.

Idem

(2) Where a corporation prescribed in the regulations has acquired depreciable property before the commencement of the first fiscal year commencing after 1951, for the purpose of section 32 and the regulations made under clause *a* of subsection 2 of section 23, that property shall be deemed to have been acquired at a capital cost equal to the amount that according to the books of the corporation was its value at the commencement of that fiscal year.

Previous
income and
losses

(3) For the purpose of computing a deduction under paragraph 3 of subsection 1 of section 37, a corporation prescribed in the regulations shall be deemed not to have had income or a loss for a fiscal year before the first fiscal year commencing after 1951.

Interpre-
tation

(4) Where land has been transferred to a corporation prescribed in the regulations for the purpose of disposition, the acquisition of the property by the corporation and any disposition thereof shall be deemed not to have been in the course of the business carried on by the corporation. R.S.O. 1960, c. 73, s. 58 (2-4).

Railway Companies

Capital cost
of certain
property

60.—(1) Notwithstanding subsection 2 of section 59, where property of the following description, namely,

- (a) railway track or railway track grading; or
- (b) a crossing,

has before 1956 been acquired by a corporation, that property shall for the purposes of section 32 and the regulations made under clause *a* of subsection 2 of section 23 be deemed to have been acquired at a capital cost equal to the amount that according to the books of the corporation was its value at the close of its fiscal year ending in 1955.

Idem

(2) For the purpose of this section, in determining the amount that according to the books of the corporation was the value of any property at the close of its fiscal year ending in 1955, no amount shall be included in respect of property that at that time was leased from any other person. R.S.O. 1960, c. 73, s. 59 (1, 2).

Repairs,
replace-
ments, etc.

(3) Where any amount in respect of an expenditure incurred by a corporation on or in respect of the repair, replacement, alteration or renovation of depreciable property of the corpora-

tion of a class prescribed by the regulations made for the purpose of this section is, under any uniform classification and system of accounts and returns prescribed by the Canadian Transport Commission pursuant to the *Railway Act* (Canada), required to be entered in the books of the corporation otherwise than as an expense,

R.S.C. 1952,
c. 234

- (a) no deduction may be made in respect of that expenditure in computing the income of the corporation for a fiscal year; and
- (b) for the purpose of section 32 and the regulations made under clause *a* of subsection 2 of section 23, the corporation shall be deemed to have acquired at the time the expenditure was incurred depreciable property of that class at a capital cost equal to that amount. R.S.O. 1960, c. 73, s. 59 (3); 1967, c. 15, s. 8 (1).

(4) In this section, "crossing" means any railway crossing of a highway, or any highway crossing of a railway, and every manner of construction of the railway or of the highway by the elevation or depression of the one above or below the other, or by the diversion of one or the other, and any work ordered or authorized by the Canadian Transport Commission to be provided as one work for the protection, safety and convenience of the public in respect of one or more railways or of as many tracks crossing or so crossed as the Canadian Transport Commission in its discretion determines. R.S.O. 1960, c. 73, s. 59 (4); 1967, c. 15, s. 8 (2).

Interpre-
tation

Special Reserves

61.—(1) In computing the income of a corporation for a fiscal year,

Special
reserves

- (a) every amount received in the fiscal year in the course of a business,
 - (i) that is on account of services not rendered or goods not delivered before the end of the fiscal year or that for any other reason may be regarded as not having been earned in the fiscal year or a previous fiscal year, or
 - (ii) under an arrangement or understanding that it is repayable in whole or in part on the return or resale to the corporation of articles in or by means of which goods were delivered to a customer,

shall be included;

- (b) every amount receivable in respect of property sold or services rendered in the course of the business in the fiscal year shall be included notwithstanding that the amount is not receivable until a subsequent fiscal year unless the method adopted by the corporation for

computing income from the business and accepted for the purpose of this Part does not require the corporation to include any amount receivable in computing its income for a fiscal year unless it has been received in that fiscal year;

- (c) subject to subsection 3, where amounts of a class described in subclause i or ii of clause *a* have been included in computing the income of a corporation from a business for the fiscal year or a previous fiscal year, there may be deducted a reasonable amount as a reserve in respect of,
 - (i) goods that it is reasonably anticipated will have to be delivered after the end of the fiscal year,
 - (ii) services that it is reasonably anticipated will have to be rendered after the end of the fiscal year,
 - (iii) periods for which rent or other amounts for the possession or use of land or chattels have been paid in advance, or
 - (iv) repayments under arrangements or understandings of the class described in subclause ii of clause *a* that it is reasonably anticipated will have to be made after the end of the fiscal year on the return or resale to the corporation of articles other than bottles;
- (d) where an amount has been included in computing the income of a corporation from its business for the fiscal year or for a previous fiscal year in respect of property sold in the course of the business and that amount or a part thereof is not receivable,
 - (i) where the property sold is property other than land, until a day that is,
 - (A) more than two years after the day on which the property was sold, and
 - (B) after the end of the fiscal year, or
 - (ii) where the property sold is land, until a day that is after the end of the fiscal year,

there may be deducted a reasonable amount as a reserve in respect of that part of the amount so included in computing the income that can reasonably be regarded as a portion of the profit from the sale;

- (e) where pursuant to subsection 15 or 16 of section 58, an amount has been included in computing the corporation's income for the fiscal year or for a previous fiscal year in respect of the disposition after the 22nd day of October, 1968, of a right, licence or privilege described in that subsection and that amount or a part thereof is not

receivable until a day that is after the end of the fiscal year, there may be deducted as a reserve in respect of that amount the part thereof that is not receivable until a day that is after the end of the fiscal year, and no deduction may be made in respect of that amount by virtue of clause *d*; and

- (f) there shall be included the amounts deducted under clauses *c*, *d* and *e* in computing the income of the corporation for the immediately preceding fiscal year. R.S.O. 1960, c. 73, s. 60 (1); 1961-62, c. 23, s. 20 (1); 1970, c. 69, s. 16 (1).

(2) Clauses *a* and *b* of subsection 1 are enacted for greater certainty and shall not be construed as implying that any amount not referred to therein is not to be included in computing the income from a business for a fiscal year whether or not it is received or receivable in the fiscal year. Interpretation

(3) Where an amount is deductible in computing income for a fiscal year under clause *c* of subsection 1 as a reserve in respect of, Special reserves

- (a) articles of food or drink that it is reasonably anticipated will have to be delivered after the end of the fiscal year; or
- (b) transportation that it is reasonably anticipated will have to be provided after the end of the fiscal year,

there shall be substituted for the amount determined thereunder an amount not exceeding the aggregate of the amounts included in computing the income of the corporation from the business for the fiscal year that were received or receivable, depending upon the method regularly followed by the corporation in computing its profit, in the fiscal year in respect of,

- (c) articles of food or drink not delivered before the end of the fiscal year; or
- (d) transportation not provided before the end of the fiscal year,

as the case may be.

(4) Clause *c* of subsection 1 does not apply to allow a deduction as a reserve in respect of guarantees, indemnities or warranties. R.S.O. 1960, c. 73, s. 60 (2-4). Exception

(5) Clause *c* of subsection 1 does not apply to allow a deduction to an insurance agent or broker in respect of unearned commissions, but a corporation may in computing its income from a business as an insurance agent or a broker for a fiscal year deduct as a reserve in respect of unearned commissions an amount equal to the proportion of an amount that has been included in Unearned commission

computing its income for the fiscal year or a previous fiscal year as a commission in respect of an insurance contract, other than a life insurance contract, that,

- (a) the number of days in that portion of the period provided for in the insurance contract that is after the end of the fiscal year,

is of,

- (b) the whole of that period.

"Cash"
method of
computing
income

(6) Clause *c* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year from a business in any case where the income of the corporation for the fiscal year from that business is computed in accordance with the method authorized by subsection 1 of section 64. R.S.O. 1960, c. 73, s. 60 (6, 7).

No deduc-
tion in
respect of
sale of
property
in certain
circum-
stances

(7) Clause *d* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year from a business in respect of property sold in the course of business where the corporation ceases to have a permanent establishment or becomes exempt from tax under any provision of this Act at any time in the fiscal year or in the immediately following fiscal year. 1968, c. 20, s. 29 (1).

Idem

(8) Clause *e* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year where the corporation, at any time in the fiscal year or in the immediately following fiscal year,

- (a) ceases to have a permanent establishment in Canada;
- (b) becomes exempt from tax under any provision of this Act; or
- (c) if incorporated outside Canada ceases to be liable for the income taxes imposed under the Act. 1970, c. 69, s. 16 (3).

Disposal of
security
where
reserve
re sale of
property

(9) No corporation shall sell, pledge, assign or in any way dispose of any security received by it as payment in whole or in part for any property sold by it, where the corporation has set up a reserve in respect of the sale of the property under this section unless the corporation has provided the Minister, in writing, with the names of the purchaser, pledgee or assignee and with the amount of cash to be received by the corporation for the security. 1968, c. 20, s. 29 (2).

Interpre-
tation

(10) For the purpose of clause *f* of subsection 1, an amount determined under subsection 3 or an amount deducted under

subsection 5 shall be deemed to have been deducted under clause *c* of subsection 1. R.S.O. 1960, c. 73, s. 60 (8).

Accounts Receivable

62.—(1) Where a person who has been carrying on a business has, in a fiscal year, sold all or substantially all the property used in carrying on the business, including the debts that have been or will be included in computing his income for that fiscal year or a previous fiscal year and that are still outstanding, and including the debts arising from loans made in the ordinary course of his business if part of his ordinary business was the lending of money and that are still outstanding, to a purchaser who proposes to continue the business which the vendor has been carrying on, if the vendor and the purchaser have executed jointly an election in prescribed form to have this section apply, the following rules are applicable:

Sale of
accounts
receivable

1. There may be deducted in computing the income of the vendor for the fiscal year an amount equal to the difference between the face value of the debts so sold, other than debts in respect of which the vendor has made deductions under clause *m* of subsection 1 of section 23 and the consideration paid by the purchaser to the vendor for the debts so sold.
2. An amount equal to the difference described in paragraph 1 shall be included in computing the income of the purchaser for the fiscal year.
3. The debts so sold shall be deemed for the purpose of clauses *k* and *m* of subsection 1 of section 23 to have been included in computing the income of the purchaser for the fiscal year or a previous fiscal year, but no deduction may be made by the purchaser under clause *m* of subsection 1 of section 23 in respect of a debt in respect of which the vendor has previously made a deduction.
4. Each amount deducted by the vendor in computing income for a previous fiscal year under clause *m* of subsection 1 of section 23 in respect of any of the debts so sold shall be deemed for the purpose of clause *h* of section 17 to have been so deducted by the purchaser. R.S.O. 1960, c. 73, s. 61 (1); 1965, c. 22, s. 13.

(2) An election executed for the purpose of subsection 1 shall contain a statement by the vendor and the purchaser jointly as to the consideration paid for the debts sold by the vendor to the purchaser and that statement is, as against the Minister, binding upon the vendor and the purchaser in so far as it may be relevant

Statement
by vendor
and
purchaser

in respect of any matter arising under this Act. R.S.O. 1960, c. 73, s. 61 (2); 1968, c. 20, s. 30.

Sale of Inventory

Sale of
inventory

63.—(1) Where upon or after disposing of or ceasing to carry on a business or a part of a business a corporation has sold all or any part of the property that was included in the inventory of the business, the property so sold shall for the purposes of this Part be deemed to have been sold by the corporation,

- (a) during the last fiscal year in which the corporation carried on the business or part of the business; and
- (b) in the course of carrying on the business. R.S.O. 1960, c. 73, s. 62 (1).

Agreement
as to price
paid by
vendor and
purchaser

(2) Where a person who has been carrying on a business has sold all or part of the property that was included in the inventory of the business, whether or not he has disposed of or ceased to carry on that business or a part of that business, to a person who has used all or part of the property so sold as inventory of a business carried on or to be carried on by the purchaser, and the amount of the consideration paid by the purchaser is, in part, consideration for the property so sold and, in part, consideration for something else, the following applies:

1. Such part of the consideration as the vendor and the purchaser have in writing agreed to be the price paid for the property so sold shall be deemed, both for the purpose of computing income from the business of the vendor and for the purpose of computing income from the business of the purchaser, to be the price so paid.
2. Where an agreement as contemplated by paragraph 1 has not been filed with the Minister within sixty days after notice in writing by the Minister has been forwarded to the vendor and the purchaser that such an agreement is required for the purpose of any assessment of tax under this Act, such part of the consideration paid as is fixed by the Minister shall be deemed to be the price agreed upon by them as the price paid for the properties so sold. R.S.O. 1960, c. 73, s. 62 (2); 1968, c. 20, s. 31.

Reference
to property
included in
inventory

(3) A reference in this section to property that was included in the inventory of a business shall be deemed to include a reference to property that would have been so included if the income from the business had not been computed in accordance with the method authorized by subsection 1 of section 64. R.S.O. 1960, c. 73, s. 62 (3).

*Special Method of Computing Income: Sale of Accounts
Receivable*

64.—(1) For the purpose of computing the income of a corporation for a fiscal year from a business of the following description, namely,

Cash method
may be used
by corpora-
tion in
business of
farming or
profession

- (a) farming; or
- (b) a profession,

the income from the business for that fiscal year shall, if the corporation so elects under subsection 1 of section 85F of the *Income Tax Act* (Canada), be computed in accordance with a method (hereinafter in this section referred to as the "cash" method) whereby the income therefrom for that fiscal year shall be deemed to be an amount equal to,

R.S.C. 1952,
c. 148

- (c) the aggregate of all amounts that,
 - (i) were received in the fiscal year, or are deemed by this Act to have been received in the fiscal year, in the course of carrying on the business, and
 - (ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the cash method, be included in computing income therefrom for that or any other fiscal year,

minus,

- (d) the aggregate of all amounts that,
 - (i) were paid in the fiscal year, or are deemed by this Act to have been paid in the fiscal year, in the course of carrying on the business, and
 - (ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the cash method, be deductible in computing income therefrom for that or any other fiscal year,

and minus any deduction for the fiscal year permitted by clause a of subsection 2 of section 23. 1965, c. 22, s. 14 (1).

(2) Subsection 1 does not apply for the purpose of computing the income of a corporation for a fiscal year from a business carried on by it jointly with one or more other persons, unless each of the other persons by whom the business is jointly carried on has elected to have his income from the business for that fiscal year computed in accordance with the method authorized by subsection 1 of section 85F of the *Income Tax Act* (Canada). R.S.O. 1960, c. 73, s. 63 (2). Exception

Cash method
must be
used in
subsequent
fiscal years

(3) Where a corporation has filed a return under this Act for a fiscal year wherein its income for that fiscal year from a business described in subsection 1 has been computed in accordance with the method authorized by that subsection, income from the business for a subsequent fiscal year shall, subject to other provisions of this Part, be computed in accordance with that method unless the corporation, with the concurrence of the Minister and upon such terms and conditions as are specified by the Minister, adopts some other method. 1965, c. 22, s. 14 (2), *part*; 1968, c. 20, s. 32.

When
corporation
ceases to
carry on
business in
Canada,
accounts
receivable
added to
income of
last fiscal
year

(4) Where a corporation that, at a time when it was a resident of Canada, carried on a business the income from which was computed in accordance with the method authorized by subsection 1 has, upon or after disposing of or ceasing to carry on the business or a part of the business, ceased to be a resident of Canada in a fiscal year, an amount equal to the value, at the time it ceased to be a resident of Canada, of,

- (a) such part of the property that would have been included in the inventory of the business or the part of the business if the income from the business had not been computed in accordance with the method authorized by subsection 1 as remained the property of the corporation at the time it ceased to be a resident of Canada; and
- (b) such part of amounts outstanding at the time it ceased to be a resident of Canada as or on account of debts owing to the corporation that arose in the course of carrying on the business as would have been included in computing its income for the fiscal year if the amounts had been received by it in the fiscal year at a time when it was a resident of Canada,

shall be included in computing its income. 1965, c. 22, s. 14 (2), *part*.

Accounts
receivable

(5) There shall be included in computing the income of a corporation for a fiscal year such part of an amount received by it in the fiscal year, upon or after disposing of or ceasing to carry on a business or part of a business, for, on account or in lieu of payment of, or in satisfaction of debts owing to the corporation that arose in the course of carrying on the business as would have been included in computing the income of the corporation for the fiscal year had the amount so received been received by it in the course of carrying on the business. R.S.O. 1960, c. 73, s. 63 (4).

Mortgage Reserves

Special
mortgage
reserve

65. In computing the income for a fiscal year of a corporation whose business includes the lending of money on the security of a mortgage, hypothec or agreement of sale of real property,

- (a) there shall be deducted and allowed as a reserve the same amount as is deducted and allowed for each fiscal year under clause *a* of section 85G of the *Income Tax Act* (Canada); and R.S.C. 1952,
c. 148
- (b) there shall be included the same amount as is included for each fiscal year under clause *b* of section 85G of the *Income Tax Act* (Canada). 1970, c. 69, s. 17.

Amalgamation of Corporations

66.—(1) In this section, an amalgamation of two or more corporations means a merger of such corporations, each of which is in this section referred to as a “predecessor corporation”, to form one corporate entity in this section referred to as the “new corporation”, in such manner that, Interpre-
tation

- (a) all of the property of the predecessor corporations immediately before the amalgamation becomes property of the new corporation by virtue of the amalgamation;
- (b) all of the liabilities of the predecessor corporations immediately before the amalgamation become liabilities of the new corporation by virtue of the amalgamation; and
- (c) all of the shareholders, except a predecessor corporation, of the predecessor corporations immediately before the amalgamation become shareholders of the new corporation by virtue of the amalgamation,

otherwise than as a result of the acquisition of property of one corporation by another corporation pursuant to the purchase of such property by the other corporation or as the result of the distribution of such property to the other corporation upon the winding-up of the corporation. R.S.O. 1960, c. 73, s. 65 (1); 1960-61, c. 14, s. 7 (1).

(2) Where there has been an amalgamation of two or more corporations, the following applies: Rules
applicable

1. For the purposes of this Act, the first fiscal year of the new corporation shall be deemed to have commenced at the time of the amalgamation, and a fiscal year of a predecessor corporation that would otherwise have ended after the amalgamation shall be deemed to have ended immediately before the amalgamation. Fiscal
year of
corporation
2. For the purpose of computing the income of the new corporation for its first fiscal year, where the property described in its inventory, if any, at the commencement of that fiscal year includes, Inventory

- (a) property that was described in the inventory of a predecessor corporation at the end of its fiscal year that ended immediately before the amalgamation, which fiscal year is in this section referred to as its "last fiscal year"; or
- (b) property that would have been described in the inventory of the predecessor corporation at the end of its last fiscal year if its income for that fiscal year had not been computed in accordance with the method authorized by subsection 1 of section 64,

the property so included shall be deemed to have been acquired by the new corporation at the commencement of its first fiscal year for an amount determined in accordance with section 26 as the value thereof for the purpose of computing the income of the predecessor corporation for its last fiscal year, except that, where the income of the predecessor corporation for its last fiscal year was computed in accordance with the method authorized by subsection 1 of section 64, the amount so determined shall be deemed to be nil.

Method
adopted for
computing
income

3. Where the method adopted by the new corporation for computing its income for a fiscal year is not the same as the method adopted by a predecessor corporation for computing its income for its last fiscal year or a previous fiscal year, in computing the income of the new corporation for that fiscal year,
 - (a) there shall be included any amount received by it in that fiscal year in payment of or on account of a debt owing to the predecessor corporation that would, if it had been received by the predecessor corporation in its last fiscal year, have been included in computing the income of the predecessor corporation for that fiscal year; and
 - (b) there may be deducted any amount paid by it in that fiscal year in payment of or on account of a debt owing by the predecessor corporation that would, if it had been paid by the predecessor corporation in its last fiscal year, have been deductible in computing the income of the predecessor corporation for that fiscal year. R.S.O. 1960, c. 73, s. 65 (2), pars. 1-3.

Capital cost,
etc., of
depreciable
property

4. For the purpose of clause *a* of subsection 2 of section 23 and section 32,
 - (a) where depreciable property is acquired by the new corporation from a predecessor corporation, the capital cost of the depreciable property to the new corporation shall be deemed to be the amount that

was the capital cost thereof to the predecessor corporation; and

- (b) in determining the undepreciated capital cost to the new corporation of depreciable property of a prescribed class at any time,
 - (i) there shall be added to the capital cost to the new corporation of depreciable property of that class acquired before that time the undepreciated capital cost to each of the predecessor corporations of depreciable property of that class immediately before the amalgamation,
 - (ii) there shall be subtracted from the capital cost to the new corporation of depreciable property of that class acquired before that time the capital cost to the new corporation of depreciable property of that class acquired by virtue of the amalgamation,
 - (iii) a reference in subclause ii of clause *a* of subsection 6 of section 32 to amounts that would have been allowed to a corporation in respect of transferred property, at the rate that was allowed to the corporation in respect of property of a prescribed class, shall be construed as including a reference to amounts that would have been allowed to a predecessor corporation in respect of that property at the rate that was allowed to the predecessor corporation in respect of property of that prescribed class, and
 - (iv) where depreciable property that is deemed by subsection 7 of section 46 to be of a separate prescribed class is acquired by the new corporation from a predecessor corporation, the property shall continue to be deemed to be of that same separate prescribed class. R.S.O. 1960, c. 73, s. 65 (2), par. 4; 1960-61, c. 14, s. 7 (2); 1961-62, c. 23, s. 22 (1).
- 5. For the purpose of computing the income of the new Reserves corporation for a fiscal year,
 - (a) any amount that has been deducted as a reserve under clause *k* of subsection 1 of section 23, section 61 or section 65 in computing the income of a predecessor corporation for its last fiscal year shall be deemed to have been deducted as a reserve thereunder in computing the income of the new corporation for a fiscal year immediately preceding its first fiscal year; and

- (b) any amount deducted under clause *m* of subsection 1 of section 23 in computing the income of a predecessor corporation for its last fiscal year or a previous fiscal year shall be deemed to have been deducted thereunder in computing the income of the new corporation for a fiscal year immediately preceding its first fiscal year. 1960-61, c. 14, s. 7 (3).

Debts

6. For the purpose of computing a deduction from the income of the new corporation for a fiscal year under clause *k* or *m* of subsection 1 of section 23 or section 65, where any debt owing to a predecessor corporation,
- (a) that was included in computing the income of the predecessor corporation for its last fiscal year or a previous fiscal year; or
- (b) that arose from a loan made in the ordinary course of business by the predecessor corporation, part of the ordinary business of which was the lending of money,

has, by virtue of the amalgamation, been acquired by the new corporation, the amount thereof shall be deemed to be a debt owing to the new corporation that was included in computing the income of the new corporation for a previous fiscal year or that arose from a loan so made by it, as the case may be. R.S.O. 1960, c. 73, s. 65 (2), par. 6.

Charitable donations

7. For the purposes of paragraphs 1 and 2 of subsection 1 of section 37, gifts made by a predecessor corporation in its last fiscal year shall, to the extent that they were not deductible in computing its taxable income for that fiscal year, be deemed to have been made by the new corporation in a fiscal year immediately preceding its first fiscal year. R.S.O. 1960, c. 73, s. 65 (2), par. 7; 1968-69, c. 19, s. 16 (1).

Business losses

8. For the purpose of paragraph 3 of subsection 1 of section 37, business losses sustained by a predecessor corporation are not deductible in computing the taxable income of the new corporation.

Un-distributed income

9. For the purpose of computing the undistributed income of the new corporation on hand at any time, where a predecessor corporation had undistributed income on hand immediately before the amalgamation, the amount thereof shall be added to the amount determined under subsection 1 of section 56 from which the aggregate of the amounts referred to in paragraphs 1 to 6 thereof is to be subtracted. R.S.O. 1960, c. 73, s. 65 (2), pars. 7-9.

10. For the purpose of computing a deduction from the income of the new corporation for a fiscal year under clause *d* of subsection 1 of section 61, any amount included in computing the income of a predecessor corporation from a business for its last fiscal year or a previous fiscal year in respect of property sold in the course of the business shall be deemed to have been included in computing the income of the new corporation from the business for a previous fiscal year in respect thereto. 1960-61, c. 14, s. 7 (4). Uncollected proceeds of sales of predecessor corporations
11. For the purpose of section 46, any expenditure of a capital nature on scientific research made by a predecessor corporation in its last fiscal year or a previous fiscal year that would have been deductible by the predecessor corporation by virtue of clause *b* of subsection 1 of section 46 in computing its income for its last fiscal year shall, to the extent such expenditure has not been deducted by the predecessor corporation, be deemed to have been an expenditure of a capital nature on scientific research made in Canada by the new corporation in its first fiscal year. 1961-62, c. 23, s. 22 (2). Scientific research
12. For the purpose of section 47, where the amalgamation of the two or more corporations was after the 10th day of April, 1962, the base scientific expenditure of the new corporation is an amount equal to the aggregate of the base scientific expenditure of each of the predecessor corporations. Scientific research
13. For the purpose of section 58, where a predecessor corporation had acquired a right, licence or privilege to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal, under an agreement, contract or arrangement described in subsection 12 of section 58 and, by virtue of the amalgamation, that right, licence or privilege, or any interest, Exploration
- (a) in such right, licence or privilege, or
 - (b) in the production of wells, situated on the land to which such right, licence or privilege relates,
- became the property of the new corporation, the new corporation shall be deemed to have acquired the right, licence or privilege under an agreement, contract or arrangement described in subsection 12 of section 58.
14. For the purpose of computing a deduction from the income of the new corporation for a fiscal year under clause *c* of subsection 1 of section 61 or subsection 5 of section 61, any amount included in computing the Special reserves

income of a predecessor corporation for its last fiscal year or a previous fiscal year, by virtue of clause *a* of subsection 1 of section 61, shall be deemed to have been included in computing the income of the new corporation for a previous fiscal year by virtue thereof. 1962-63, c. 26, s. 9 (1).

Exploration,
prospecting
and develop-
ment
expenses

(3) Notwithstanding subsection 22 of section 58, where there has been an amalgamation of two or more corporations after the year 1957 and the principal business of the new corporation is,

- (a) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas;
- (b) mining or exploring for minerals;
- (c) processing mineral ores for the purpose of recovering metals therefrom;
- (d) a combination of processing mineral ores for the purpose of recovering metals therefrom and processing metals recovered from the ore so processed; or
- (e) fabricating metals,

there may be deducted by the new corporation in computing its income for a fiscal year the aggregate of the following amounts in respect of expenses incurred by predecessor corporations, namely, in respect of each individual predecessor corporation, an amount that is the lesser of,

- (f) the aggregate of,
 - (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by the predecessor corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada, and
 - (ii) the prospecting, exploration and development expenses incurred by the predecessor corporation in searching for minerals in Canada,

to the extent that such expenses,

- (iii) were not deductible by the new corporation in computing its income for a previous fiscal year and were not deductible by the predecessor corporation in computing its income for its last fiscal year or its income for a previous fiscal year, and
- (iv) would, but for the provisions of clause *b* of subsection 1 of section 58, clause *b* of subsection 2 of section 58, clause *d* of subsection 3 of section 58, clause *h* of subsection 5 of section 58, and clause *d* of subsection 22 of section 58, or any of those clauses, have been deductible by the predecessor corporation in computing its income for its last fiscal year; or

(g) of the aggregate determined under clause *f*, an amount equal to such part of the income of the new corporation for the fiscal year,

(i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and

(ii) if no deduction were allowed under this section,

minus any deduction allowed for the fiscal year by subsection 1 of section 38, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property from which the predecessor corporation had, immediately before the amalgamation, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and no amount in respect of expenses of the predecessor corporation included in the aggregate determined under clause *f* shall, where subsection 1 of section 56 is being applied to determine for the purpose of paragraph 9 of subsection 2 of this section the undistributed income of the predecessor corporation on hand immediately before the amalgamation, be included in the amount or amounts deductible under any paragraph of subsection 1 of section 56. R.S.O. 1960, c. 73, s. 65 (3); 1960-61, c. 14, s. 7 (5); 1961-62, c. 23, s. 22 (3); 1962-63, c. 26, s. 9 (2); 1968-69, c. 19, s. 16 (2).

(4) In applying the provisions of subsection 3 to determine the amount that may be deducted by the new corporation in computing its income under this Part for a fiscal year, where a predecessor corporation has paid an amount other than a rental or royalty to the government of Canada or of a province for, Idem

(a) the right to explore for petroleum or natural gas on a specified parcel of land in Canada which right is, for greater certainty, declared to include a right of the type commonly referred to as a "licence", "permit" or "reservation"; or

(b) a legal lease of the right to take or remove petroleum or natural gas from a specified parcel of land in Canada,

and acquired the rights, before the 11th day of April, 1962, in respect of which the amount so paid, if, before the predecessor corporation was entitled, by virtue of subsection 20 of section 58, to any deduction in computing its income for a fiscal year in respect of the amount so paid, the property of the predecessor corporation was acquired by the new corporation and the new corporation did, before any well came into production in reasonable commercial quantities, on the land referred to in clause *a* or *b*, surrender all the rights so acquired by the predecessor corporation, including, in respect of a right of the kind described in clause

a, all rights thereunder to any lease and all rights under any lease made thereunder, without receiving any consideration therefor or payment of any part of the amount so paid by the predecessor corporation, the amount so paid by the predecessor corporation shall be added to the amount determined under clause f of subsection 3. 1961-62, c. 23, s. 22 (4); 1962-63, c. 26, s. 9 (3).

Tax on
tax

R.S.C. 1952,
c. 148

67. Where under a contract, will or trust made or created before the 14th day of May, 1953, a person is required to make a payment to a corporation and is required by the terms of the contract, will or trust to pay an additional amount measured by reference to tax payable by such corporation under Part I of the *Income Tax Act* (Canada) and Part II of this Act by reason of the payment,

- (a) the tax payable by the corporation under Part II of this Act for the fiscal year in or in respect of which such a payment is made or becomes payable is the amount that the tax of the corporation under Part II of this Act would be if no amount under the contract were included in computing its income for the fiscal year plus,
 - (i) the amount by which its tax under Part II of this Act would be increased by including in computing its income,
 - (A) the payment, and
 - (B) the amount by which its tax under Part I of the *Income Tax Act* (Canada) would be increased by including the payment in computing its income, and
 - (ii) the amount by which the tax of the corporation under Part II of this Act would be further increased by including, in computing its income for the fiscal year, the amount fixed by subclause i or the additional payment, whichever is the lesser; and
- (b) if the person required to make the payments is a corporation and would otherwise be entitled to deduct the amounts payable under such a contract in computing its income for a fiscal year, such corporation is not entitled to deduct the amount determined under subclause ii of clause a. R.S.O. 1960, c. 73, s. 66.

Acquisition
of depreci-
able
property

68.—(1) Where in a fiscal year a corporation has acquired property in respect of which it is entitled to a deduction under regulations made under clause a of subsection 2 of section 23 in computing its income for that fiscal year, hereinafter in this section referred to as “depreciable property”, if it so elects in a manner prescribed on or before the day on or before which it is required by section 73 to file its return of income for the year,

- (a) in computing its income for the fiscal year and for such of the three immediately preceding fiscal years as the corporation had, if any, clauses *a*, *h* and *i* of subsection 1 of section 23 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing its income, other than exempt income, for the fiscal year and for those immediately preceding fiscal years, if any, by virtue of those clauses in respect of borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it; and
- (b) the amount or the part of the amount, as the case may be, described in clause *a* shall be added to the capital cost to it of the depreciable property so acquired by it.

(2) Where in a fiscal year a corporation has used borrowed money for the purpose of exploration, prospecting or development, and the expenses incurred by it in respect of the exploration, prospecting or development are deductible in computing its income for the fiscal year by virtue of section 58 or would be so deductible by virtue of that section if the corporation had sufficient income for the fiscal year to permit such a deduction to be made, if it so elects in prescribed manner on or before the day on or before which it is required by section 73 to file its return of income for the fiscal year,

Borrowed money used for exploration, prospecting and development

- (a) in computing its income for the fiscal year and for such of the three immediately preceding fiscal years as the corporation had, if any, clauses *a*, *h* and *i* of subsection 1 of section 23 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing its income, other than exempt income, for the fiscal year and for those immediately preceding fiscal years, if any, by virtue of those clauses in respect of the borrowed money used for the exploration, prospecting and development; and
- (b) the amount or the part of the amount, as the case may be, described in clause *a* shall be deemed to be exploration, prospecting and development expenses incurred by it in the fiscal year.

(3) In computing the income of a corporation for a fiscal year, *Idem* where the corporation,

- (a) in any preceding fiscal year made an election under subsection 1 in respect of borrowed money used to acquire depreciable property or an amount payable for depreciable property acquired by it; and

- (b) in each fiscal year, if any, after that preceding fiscal year and before the fiscal year, made an election under this subsection covering the total amount that, but for this subsection, would have been deductible in computing its income, other than exempt income, for each such fiscal year by virtue of clauses *a*, *h* and *i* of subsection 1 of section 23 in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it,

if it so elects in prescribed manner on or before the day on or before which it is required by section 73 to file its return of income for the fiscal year, clauses *a*, *h* and *i* of subsection 1 of section 23 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing its income, other than exempt income, for the fiscal year by virtue of those clauses in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it, and the said amount or part of the amount, as the case may be, shall be added to the capital cost to it of the depreciable property so acquired by it.

Idem

(4) In computing the income of a corporation for a fiscal year, where the corporation,

- (a) in any preceding fiscal year made an election under subsection 2 in respect of borrowed money used for the purpose of exploration, prospecting or development; and
- (b) in each fiscal year, if any, after that preceding fiscal year and before the fiscal year, made an election under this subsection covering the total amount that, but for this subsection, would have been deductible in computing its income, other than exempt income, for each such fiscal year by virtue of clauses *a*, *h* and *i* of subsection 1 of section 23 in respect of the borrowed money used for the exploration, prospecting and development,

if it so elects in prescribed manner on or before the day on or before which it is required by section 73 to file its return of income for the fiscal year, clauses *a*, *h* and *i* of subsection 1 of section 23 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing its income, other than exempt income, for the fiscal year by virtue of those clauses in respect of the borrowed money used for the exploration, prospecting and development, and the said amount or part of the amount, as the case may be, shall be deemed to be exploration, prospecting and development expenses incurred by it in the fiscal year.

(5) Notwithstanding any other provision of this Act, where a corporation has made an election in accordance with the provisions of subsection 1 or 2, such reassessments of tax, interest or penalties shall be made as are necessary to give effect thereto. Reassessments

(6) This section does not apply to a co-operative corporation for the period during which it was exempt by section 48 from payment of tax under this Act. 1970, c. 69, s. 18. Co-operative corporations

PART IV

COMPUTATION OF PAID-UP CAPITAL

DIVISION A—TAXABLE PAID-UP CAPITAL

69. The taxable paid-up capital of a corporation shall be measured as at the close of the fiscal year for which the tax imposed by section 6 is levied and is its paid-up capital minus the deductions permitted by Division C. R.S.O. 1960, c. 73, s. 67. Taxable paid-up capital

DIVISION B—COMPUTATION OF PAID-UP CAPITAL

70. The paid-up capital of a corporation for a fiscal year is its paid-up capital as it stood at the close of the fiscal year and includes the paid-up capital stock of the corporation, its earned capital and any other surplus, all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under Part III, all sums or credits advanced or loaned to the corporation by any other corporation, excluding a bank, and all its indebtedness, whether assumed or undertaken by it, represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property of the corporation or any of it is subject. R.S.O. 1960, c. 73, s. 68. World paid-up capital

DIVISION C—COMPUTATION OF TAXABLE PAID-UP CAPITAL

71.—(1) For the purpose of computing the taxable paid-up capital of a corporation for a fiscal year, there may be deducted from its paid-up capital as at the close of the fiscal year such of the following amounts as are applicable: Deductions from paid-up capital

- (a) the amount of the goodwill or other intangible thing included as an asset to the extent that such goodwill or other intangible thing in the opinion of the Minister has no value, but this deduction applies to no more than 50 per cent of the book value of such goodwill or other intangible thing; Goodwill

Discount
on shares
R.S.O. 1970,
c. 89

- (b) the amount of the discount allowed on the sale of the shares of a corporation to which Part IV of *The Corporations Act* applies;

Investments

- (c) the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a* and *b*, which the cost of the investments made by the corporation in the shares and bonds of other corporations, in loans and advances to other corporations and in the bonds, debentures and other securities of any government, municipal or school corporation bears to the total assets of the corporation remaining after the deductions of the amounts provided by clauses *a* and *b*, but cash on deposit with any corporation doing the business of a savings bank and amounts due by a corporation with its head office outside Canada to a subsidiary controlled corporation or a subsidiary wholly-owned corporation taxable under section 6 shall be deemed not to be loans and advances to other corporations;

Capital
held in
mining

- (d) in the case of a corporation engaged in mining, the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a*, *b* and *c* which the total of,

(i) the amount held or used in the survey for exploration and development of minerals,

(ii) the amount invested in the mine as defined by *The Mining Tax Act*,

(iii) the amount invested in the plant and works necessary to and forming part of such mine, and

(iv) the amount invested in the plant and works necessary for the refinement of the ore taken from the mine,

bears to the total assets remaining after the deduction of the amounts provided by clauses *a*, *b* and *c*. R.S.O. 1960, c. 73, s. 69 (1); 1968, c. 20, s. 33.

Interpre-
tation

- (2) For the purpose of this Part, "total assets" includes any amount,

(a) by which any asset of a corporation is carried in its books of account or on its balance sheet in excess of the cost thereof;

(b) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is not deductible under Part III,

and excludes any amount,

- (c) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under Part III.

(3) In computing the paid-up capital of a non-resident corporation for a fiscal year, there shall not be included the amount of the paid-up capital invested in a ship or aircraft operated by such corporation in Canada if such corporation is entitled, in computing its income for a fiscal year, to exclude the income for the fiscal year earned in Canada from the operation of such ship or aircraft under clause *b* of section 22. R.S.O. 1960, c. 73, s. 69 (2, 3).

Ship or aircraft of non-resident corporation, amounts not included in computing paid-up capital

72.—(1) Unless otherwise provided in this Act, any tax imposed by this Act shall be determined on the amount of the paid-up capital stock, mileage or other subject in respect of which the amount of the tax is to be ascertained as such stock, mileage or other subject stood at the close of the fiscal year of the corporation for which the tax is imposed. R.S.O. 1960, c. 73, s. 70 (1).

How tax to be determined

(2) Any tax imposed by this Act that is to be calculated in respect of, *Idem*

- (a) the taxable income of a corporation; or
(b) the gross premiums that become payable to insurance corporations,

shall be calculated with reference to the taxable income earned or the gross premiums that become payable, as the case may be, during the fiscal year of the corporation for which the respective tax is imposed. 1968-69, c. 19, s. 17.

PART V

RETURNS, PAYMENTS, ASSESSMENTS AND APPEALS

DIVISION A—RETURNS

73.—(1) Every corporation on which a tax is imposed by this Act shall, on or before the last day of the month that ends six months following the close of its fiscal year, without notice or demand, and every corporation on which a tax is or is not imposed by this Act shall, upon receipt of a notice or demand in writing from the Minister or from any officer of the Department of Revenue authorized by the Minister to make such demand, deliver to the Minister such return as is required for the purpose of carrying out the provisions of this Act. R.S.O. 1960, c. 73, s. 71 (1); 1968, c. 20, s. 34 (1).

Annual return

Verification
of returns

(2) The return shall contain an estimate of the respective taxes payable and shall be verified by a certificate certifying that the financial statements included in the return or attached thereto are in agreement with the books of the corporation, and such certificate shall be signed by the president or some other officer having personal knowledge of the affairs of the corporation and, in the case of an extra-provincial corporation, by the manager or chief agent of the corporation in Ontario or by such other person or persons connected with the corporation as the Minister requires. R.S.O. 1960, c. 73, s. 71 (2); 1968, c. 20, s. 34 (2).

Penalty
for default

74.—(1) Every corporation that fails to deliver a return as and when required by subsection 1 of section 73 shall pay a penalty of,

- (a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be delivered, if the tax payable by the corporation for the fiscal year that was unpaid at that time was less than \$10,000; and
- (b) \$500, if at the time the return was required to be delivered tax payable by the corporation equal to \$10,000 or more was unpaid.

Failure to
complete
return

(2) Every corporation that fails to complete the information required on the return to be delivered under subsection 1 of section 73 is liable to a penalty of 1 per cent of the taxes payable by it under this Act, but such penalty shall not in any case be less than \$20 or more than \$100.

False
statements

(3) Every person who has,

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a corporation;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of a corporation;
- (d) wilfully in any manner evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by clauses *a* to *d*,

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on summary conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both. R.S.O. 1960, c. 73, s. 72.

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act has made, or has participated in, assented to or acquiesced in the making of, a statement or omission in a return, certificate, statement or answer filed or made as required by or under this Act or the regulations, as a result of which the tax that would have been payable by the corporation for a fiscal year, if the tax had been assessed on the basis of the information provided in the return, certificate, statement or answer, is less than the tax payable by the corporation for the fiscal year, the corporation is liable to a penalty of 25 per cent of the amount by which the tax that would so have been payable is less than the tax payable by the corporation for the fiscal year. 1964, c. 11, s. 12.

Statements
or omissions
in return

75. The Minister may enlarge the time for making any return before or after the time for making it. R.S.O. 1960, c. 73, s. 73; 1968, c. 20, s. 35.

Extended
time for
making
returns

DIVISION B—PAYMENTS

76.—(1) The taxes imposed by this Act shall be deemed to accrue proportionately as the days of each fiscal year for which such taxes are imposed pass. R.S.O. 1960, c. 73, s. 74 (1).

Taxes, when
to accrue

(2) Every corporation on which a tax is imposed by this Act shall pay to the Treasurer of Ontario,

Dates of
payment

- (a) on or before the fifteenth day of each of the fifth, eighth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the second month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one quarter of the tax payable as estimated by it at the rates for the fiscal year on,
 - (i) its estimated taxable income and other subject of tax for the fiscal year, or
 - (ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and
- (b) on or before the last day on which a return is required to be delivered under subsection 1 of section 73, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year. 1967, c. 15, s. 9 (1); 1968, c. 20, s. 36 (1, 2).

Dates of
payment

(3) Notwithstanding subsection 2, every corporation on which a tax is imposed by this Act, the fiscal year of which commenced after the 15th day of March, 1969, shall pay to the Treasurer of Ontario,

- (a) on or before the fifteenth day of each of the third, fifth, seventh, ninth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-sixth of the tax payable as estimated by it at the rates for the taxation year on,
 - (i) its estimated taxable income and other subject of tax for the fiscal year, or
 - (ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and
- (b) on or before the last day on which a return is required to be delivered under subsection 1 of section 73, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year. 1968-69, c. 18, s. 9 (1).

Special
cases

(4) Notwithstanding subsections 2 and 3 and subject to subsection 4 of section 77, where for the purposes of this section any corporation estimates the amount of tax payable for a fiscal year to be less than \$300, the corporation may, instead of paying the instalments required by subsection 2 or 3, pay such tax on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable. 1968-69, c. 18, s. 9 (2).

Idem

(5) Notwithstanding subsection 2, every corporation, except those corporations to which the provisions of section 8, 9, 10, 11 or 12 apply, the fiscal year of which commenced prior to the 15th day of March, 1969, and ends on or after the 15th day of March, 1969, shall, in addition to any instalment of tax otherwise payable on or before the fifteenth day of the second month following the close of such fiscal year, pay the balance or whole of the capital tax remaining unpaid as imposed by this Act based on a rate of one-tenth of 1 per cent of the taxable paid-up capital as it stood at the close of such fiscal year.

Idem

(6) Notwithstanding subsection 2, every corporation to which the provisions of section 8, 9, 10, 11 or 12 apply, the fiscal year of which commenced prior to the 15th day of March, 1969, and ends on or after the 15th day of March, 1969, shall, in addition to any instalment of tax otherwise payable on or before the fifteenth day of the second month following the close of such fiscal year, pay the balance or whole of the taxes payable under those sections remaining unpaid, determined on the amount of mileage or other subject referred to in the said sections in respect of which the

amount of tax is to be ascertained as such mileage or other subject of tax stood at the close of such fiscal year. 1968-69, c. 18, s. 9 (3).

77.—(1) Where the amount paid on account of tax payable by a corporation for a fiscal year before the expiration of the time allowed for delivering of the return of the corporation under section 73 is less than the amount of tax payable for the fiscal year, the corporation liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for delivering the return to the date of payment at such rate as is prescribed by the regulations. R.S.O. 1960, c. 73, s. 75 (1); 1968-69, c. 18, s. 10 (1). Interest on unpaid tax

(2) Where a corporation is required by subsection 2, 3, 4, 5 or 6 of section 76 to pay all or a part or instalment of tax and it has failed to pay all or any part thereof as required, the corporation, in addition to the interest payable under subsection 1, shall pay interest, at such rate as is prescribed by the regulations, on the amount it failed to pay from the day on or before which it was required to make the payment to the day of payment or the beginning of the period in respect of which it becomes liable to pay interest thereon under subsection 1, whichever is earlier. 1968-69, c. 18, s. 10 (2); 1968-69, c. 19, s. 18. Idem

(3) Where a corporation is entitled to deduct under paragraph 3 of subsection 1 of section 37 in computing its taxable income for a taxation year an amount in respect of a loss sustained in the fiscal year immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", for the purpose of computing interest and penalty interest under this section on tax or a part or instalment of tax for the taxation year for any portion of the period in respect of which the interest is payable on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under paragraph 3 of subsection 1 of section 37 in respect of that loss. R.S.O. 1960, c. 73, s. 75 (5). Effect of carry-back of loss

(4) For the purposes of calculating interest under subsection 2, where a corporation is required to pay a part or instalment of tax for a fiscal year as estimated by it on its taxable income and other subject of tax for a preceding fiscal year or on its estimated taxable income and other subject of tax for the fiscal year, it shall be deemed to have been liable to pay a part or instalment computed by reference to the taxable income and other subject of tax for, Payment of instalments

(a) the preceding fiscal year; or

(b) the fiscal year,

whichever is the lesser. 1968, c. 20, s. 37 (4).

DIVISION C—ASSESSMENTS

Assessment
of returns

78.—(1) The Minister shall with all due despatch examine each return delivered under section 73 and assess the tax for the fiscal year and the interest and penalties if any payable. R.S.O. 1960, c. 73, s. 76 (1); 1968, c. 20, s. 38 (1).

Notice of
assessment

(2) After examination of a return, the Minister shall send by mail or by registered mail or deliver by personal service a notice of assessment to the corporation that delivered the return. 1967, c. 15, s. 11; 1968, c. 20, s. 38 (2).

Continuation
of liability
for tax

(3) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. R.S.O. 1960, c. 73, s. 76 (3).

Re-
assessment

(4) The Minister may at any time assess tax, interest or penalties, or notify in writing any person by whom a return of income or other subject of tax for a fiscal year has been filed that no tax is payable for the fiscal year, and may,

- (a) at any time, if the corporation or person filing the return,
 - (i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or
 - (ii) has failed to file financial statements with the return required to be filed under section 73, or
 - (iii) has been negligent in supplying any information under this Act, or
 - (iv) has filed with the Minister a waiver in a prescribed form within six years from the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a fiscal year, or
 - (v) has claimed a deduction under section 50; and
- (b) within six years from the day referred to in subclause iv of clause a, in any other case,

reassess or make additional assessments or assess tax, interest or penalties, as the circumstances require. 1970, c. 69, s. 19.

Idem

(5) Where a corporation has delivered the return required by section 73 for a fiscal year and, within one year from the day on or before it was required by section 73 to deliver a return for that fiscal year, has filed an amended return for the fiscal year claiming a deduction from income under paragraph 3 of subsection 1 of section 37 in respect of a business loss sustained in the fiscal year immediately following that fiscal year, the Minister shall reassess the tax payable by the corporation for that fiscal year. R.S.O. 1960, c. 73, s. 76 (5); 1968, c. 20, s. 38 (4).

(6) The Minister is not bound by a return or information delivered by or on behalf of a corporation and may, notwithstanding a return or information so delivered or if no return or information has been delivered, assess the tax payable under this Act. R.S.O. 1960, c. 73, s. 76 (6); 1968, c. 20, s. 38 (5). Minister
not bound
by returns

(7) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. R.S.O. 1960, c. 73, s. 76 (7). Assessment
valid and
binding

79.—(1) Every corporation shall within thirty days from the day of mailing of the notice of assessment pay any part of the assessed tax, interest and penalties then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding. R.S.O. 1960, c. 73, s. 77 (1). Payment
of
assessment

(2) Where in the opinion of the Minister a corporation is attempting to avoid payment of a tax imposed by this Act or where the Minister has assessed the tax payable under this Act pursuant to subsection 6 of section 78, he may, notwithstanding subsection 2 of section 78, serve the notice of assessment upon the corporation or the president, manager, secretary or any director, agent or representative thereof and direct that all taxes, penalties and interest as set out therein shall be paid forthwith. R.S.O. 1960, c. 73, s. 77 (2); 1968, c. 20, s. 39. Idem

DIVISION D—REFUNDS OF OVERPAYMENTS

80.—(1) If the return required to be delivered by a corporation under section 73 for a fiscal year has been delivered within four years from the end of that fiscal year, the Minister, Refunds

- (a) may, upon mailing the notice of assessment for the fiscal year, refund without application therefor any overpayment made on account of the tax payable for the fiscal year; and
- (b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within four years from the day on which the overpayment was made or the day on which the notice of assessment was mailed. R.S.O. 1960, c. 73, s. 78 (1); 1968, c. 20, s. 40 (1).

(2) Instead of making a refund that might otherwise be made under this section, the Minister may, where the corporation is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify the corporation of such action. R.S.O. 1960, c. 73, s. 78 (2); 1968, c. 20, s. 40 (2). Application
to other
taxes

Interest on
over-
payments

(3) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the latest of,

- (a) the day on which the overpayment arose;
- (b) the day on or before which the return of the corporation in respect of which the overpayment arose was required by section 73 to be delivered; or
- (c) the day on which the return of the corporation in respect of which the overpayment arose was delivered,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection. R.S.O. 1960, c. 73, s. 78 (3); 1968-69, c. 18, s. 11 (1).

Idem

(4) Where by a decision of the Minister under section 81 or by a decision of a court it is finally determined that the tax payable under this Act by a corporation for a fiscal year is less than the amount assessed by the assessment under section 78 to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the fiscal year, the interest payable under subsection 3 on that overpayment shall be computed at such rate as is prescribed by the regulations. R.S.O. 1960, c. 73, s. 78 (4); 1968, c. 20, s. 40 (4); 1968-69, c. 18, s. 11 (2).

Interpre-
tation

(5) For the purpose of this section, "overpayment" means the aggregate of all amounts paid on account of tax payable for a fiscal year minus all amounts payable under this Act or an amount so paid where no amount is so payable.

Effect of
carry-back
of loss

(6) Where a corporation is entitled to deduct under paragraph 3 of subsection 1 of section 37 in computing its taxable income for a taxation year an amount in respect of a loss sustained in the fiscal year immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", and the amount of the tax payable for the taxation year is relevant in determining an overpayment for the purpose of computing interest under subsection 3 for any portion of a period ending on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under paragraph 3 of subsection 1 of section 37 in respect of that loss. R.S.O. 1960, c. 73, s. 78 (5, 6).

DIVISION E—OBJECTIONS TO ASSESSMENT

81.—(1) A corporation that objects to an assessment under this Act may within ninety days from the day of mailing of the notice of assessment serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. R.S.O. 1960, c. 73, s. 79 (1); 1968, c. 20, s. 41 (1). Notice of objection

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. R.S.O. 1960, c. 73, s. 79 (2); 1968, c. 20, s. 41 (2). Service

(3) The Minister may accept a notice of objection under this section notwithstanding that it was not served in duplicate or in the manner required by subsection 2. 1968-69, c. 19, s. 19. Idem

(4) Upon receipt of the notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess and he shall thereupon notify the corporation of his action by registered letter. R.S.O. 1960, c. 73, s. 79 (3); 1968, c. 20, s. 41 (3). Recon- sideration

DIVISION F—APPEALS

82.—(1) Where a corporation has served notice of objection to an assessment under section 81, the corporation may appeal to the Supreme Court to have the assessment vacated or varied after the Minister has confirmed or reassessed, but no appeal under this section may be instituted after the expiration of ninety days from the day notice has been mailed to the corporation under section 81 that the Minister has confirmed the assessment or reassessed. R.S.O. 1960, c. 73, s. 80 (1); 1968, c. 20, s. 42 (1). Appeal

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or other permanent establishment. R.S.O. 1960, c. 73, s. 80 (2); 1968, c. 20, s. 42 (2). Appeals, how instituted

(3) A notice of appeal shall be served upon the Minister by being sent by registered mail addressed to the Minister. R.S.O. 1960, c. 73, s. 80 (3); 1968, c. 20, s. 42 (3). Notice of appeal

(4) The corporation appealing shall set out in the notice of appeal a statement of the allegations of fact, the statutory provisions and reasons that it intends to submit in supporting its appeal. R.S.O. 1960, c. 73, s. 80 (4). Statement of allegations

Security
for costs

(5) An appeal by a corporation and all proceedings thereunder are, upon the expiration of sixty days from the day the appeal is instituted, null and void unless security for the costs of the appeal has been, within the said period, paid into court in the sum of \$400 or such other sum as the Minister requires and, upon an appeal becoming null and void by virtue of this subsection, no other appeal or proceedings shall be instituted in respect of the same decision. R.S.O. 1960, c. 73, s. 80 (5); 1968, c. 20, s. 42 (4).

Idem

(6) When security has been given under subsection 5, notice thereof shall be served on the Minister specifying the fact and the purpose of the payment. R.S.O. 1960, c. 73, s. 80 (6); 1968, c. 20, s. 42 (5).

Reply to
notice of
appeal

83.—(1) The Minister shall with all due despatch serve on the corporation appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as the Minister intends to rely on. R.S.O. 1960, c. 73, s. 81 (1); 1968, c. 20, s. 43.

Amendment
of notice
of appeal

(2) The court or a judge may in its or his discretion strike out a notice of appeal or any part thereof for failure to comply with subsection 4 of section 82 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

Amendment
to reply

(3) The court or a judge may in its or his discretion,

- (a) strike out any part of a reply for failure to comply with subsection 1 or permit the amendment of a reply; or
- (b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order.

Failure to
comply

(4) Where a notice of appeal is struck out for failure to comply with subsection 4 of section 82 and a new notice of appeal is not filed as and when permitted by the court or a judge, the court or a judge thereof may, in its or his discretion, dispose of the appeal by dismissing it.

Idem

(5) Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the court or a judge within the time ordered, the court may dispose of the appeal *ex parte* or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true. R.S.O. 1960, c. 73, s. 81 (2-5).

Matter
deemed
action

84.—(1) Upon the filing of the material referred to in sections 82 and 83 with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or permanent establishment, the matter shall be deemed to be an action in the court and, unless the court otherwise orders, ready for hearing.

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court directs. R.S.O. 1960, c. 73, s. 82, (1, 2). Facts not set out may be pleaded

(3) The court may dispose of the appeal by, Disposal of appeal

- (a) dismissing it;
- (b) allowing it; or
- (c) allowing it, and
 - (i) vacating the assessment,
 - (ii) varying the assessment,
 - (iii) restoring the assessment, or
 - (iv) referring the assessment back to the Minister for reconsideration and reassessment. R.S.O. 1960, c. 73, s. 82 (3); 1968, c. 20, s. 44 (1).

(4) The court may in delivering judgment disposing of an appeal order payment or refund of tax, interest, penalties or costs by the taxpayer or the Minister, as the case may be. R.S.O. 1960, c. 73, s. 82 (4); 1968, c. 20, s. 44 (2). Court may order payment of tax, etc.

85. Proceedings under this Division shall be held in camera upon request made to the court by the corporation appealing or by the Minister. R.S.O. 1960, c. 73, s. 83; 1968, c. 20, s. 45. Proceedings in camera

86. The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 84 and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. R.S.O. 1960, c. 73, s. 84. Supreme Court practice to govern

87. An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act. R.S.O. 1960, c. 73, s. 85. Irregularities

PART VI

ADMINISTRATION AND ENFORCEMENT

88.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and, Investigations

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act;
- (c) require the president, manager, secretary or any director, agent or representative of the corporation liable to pay or considered possibly liable to pay tax under this Act and any other person on the premises of such corporation to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, require such person to attend at the premises or place with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a violation of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings. R.S.O. 1960, c. 73, s. 86 (1); 1968, c. 20, s. 46 (1).

Idem

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any corporation or from the president, manager, secretary, or any director, agent or representative thereof,

- (a) any information or additional information or a return as required by section 73 or a supplementary return; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein. R.S.O. 1960, c. 73, s. 86 (2); 1968, c. 20, s. 46 (2).

Idem

(3) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any portion of the income of the corporation, or from any partner, agent or official of any such person, partnership, syndicate, trust or corporation, production, or production on oath, of any books,

letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein. R.S.O. 1960, c. 73, s. 86 (3); 1968, c. 20, s. 46 (3).

(4) The Minister may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Department of Revenue, together with such members of the provincial police or other peace officers as he calls on to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the violation of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. R.S.O. 1960, c. 73, s. 86 (4); 1968, c. 20, s. 46 (4). Idem

(5) The Minister may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer, for the purpose of determining what tax, if any, is payable under this Act by any corporation and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand. R.S.O. 1960, c. 73, s. 86 (5); 1968, c. 20, s. 46 (5). Production of evidence to prove tax payable by another corporation

(6) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Department of Revenue, to make such inquiry as he deems necessary with reference to anything relating to the administration or enforcement of this Act. R.S.O. 1960, c. 73, s. 86 (6); 1968, c. 20, s. 46 (6). Inquiry

(7) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Department of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. R.S.O. 1960, c. 73, s. 86 (7); 1968, c. 20, s. 46 (7). Copies

Compliance

(8) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

Adminis-
tration
of oaths

(9) Declarations or affidavits in connection with returns delivered under this Act or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor.

Powers
of inquiry

R.S.O. 1970,
c. 379

(10) For the purpose of an inquiry authorized under subsection 6, the person authorized to make the inquiry has all the powers and authority that may be conferred upon a commissioner appointed under *The Public Inquiries Act*. R.S.O. 1960, c. 73, s. 86 (8-10).

Books and
records

89.—(1) Every corporation that is required by this Act to pay taxes shall keep records and books of account, including an annual inventory kept in the prescribed manner, at its permanent establishment in Ontario or at such other place as is designated by the Minister, in such form and containing such information as will enable the taxes payable under this Act to be determined. R.S.O. 1960, c. 73, s. 87 (1); 1968, c. 20, s. 47 (1).

Idem

(2) Where a corporation has failed to keep adequate records and books of account for the purpose of this Act, the Minister may require the corporation to keep such records and books of account as he specifies and the corporation shall thereafter keep records and books of account as so required. R.S.O. 1960, c. 73, s. 87 (2); 1968, c. 20, s. 47 (2).

Idem

(3) Every corporation required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Minister, retain every such record or book of account and every account or voucher necessary to verify the information in any such records or books of account. R.S.O. 1960, c. 73, s. 87 (3); 1968, c. 20, s. 47 (3).

Offences

90.—(1) Every corporation that has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of not less than \$25 for each day of default.

(2) Every person who has failed to comply with or contravened section 88 or 89 is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of \$25 for each day during which the default continues. R.S.O. 1960, c. 73, s. 88. Idem

91. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. R.S.O. 1960, c. 73, s. 89. Officers,
etc., of
corporations

92. An information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose. 1970, c. 69, s. 20. Time for
laying
information

93.—(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act or allow any such person to inspect or have access to any written statement furnished under this Act. Communi-
cation of
information

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 73, s. 90 (1, 2). Offence

(3) Notwithstanding subsection 1, the Minister may, for the purpose of aiding in an investigation for taxation purposes under this or any other Act, enter into an agreement with the government of Canada or of any province under which officers of such government will be allowed access to information obtained or any written statement furnished under this Act and officers of the Government of Ontario will be allowed access to information obtained or any written statement furnished under any Act of such government. R.S.O. 1960, c. 73, s. 90 (3); 1968, c. 20, s. 48. Exception

Collection

94.—(1) All taxes, interest, penalties, costs and other amounts payable under this Act are debts due to Her Majesty and subject to the *Bankruptcy Act* (Canada) are a first lien and charge upon the property in Ontario of the corporation liable to pay such taxes, interest, penalties, costs and other amounts, but such lien and charge does not apply to any mine as defined in *The Mining Tax Act* until the corporation owning the mine has become liable for the payment of a tax on mining profits under *The Mining Tax Act*. R.S.O. 1960, c. 73, s. 91 (1); 1968-69, c. 19, s. 20. Priority
of tax
R.S.C. 1952,
c. 14

R.S.O. 1970,
c. 275

Tax and
penalty to
be lien on
property

(2) All taxes, interest, penalties, costs and other amounts payable under this Act by a corporation that owns, operates or uses a railway are a special lien on any property, real or personal, in which the corporation has any interest, legal or equitable (other than as lessee or under any agreement for running rights or operating rights) in priority to every claim, privilege, lien or encumbrance, whenever created, of every person, and the lien and its priority are not lost or impaired by any neglect, omission or error of any minister, officer, servant or agent of the Crown, or by want of registration. R.S.O. 1960, c. 73, s. 91 (2).

Garnishment

95.—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a corporation liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require him to pay the moneys otherwise payable to that corporation in whole or in part to the Treasurer on account of the liability under this Act. R.S.O. 1960, c. 73, s. 92 (1); 1968, c. 20, s. 49 (1); 1968-69, c. 19, s. 21 (1).

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. R.S.O. 1960, c. 73, s. 92 (2); 1968-69, c. 19, s. 21 (2).

Liability
of debtor

(3) Every person who has discharged any liability to a corporation liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser. R.S.O. 1960, c. 73, s. 92 (3); 1968-69, c. 19, s. 21 (3).

Service of
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a corporation liable to make a payment under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

Idem

(5) Where the persons who are or are about to become indebted or liable to make a payment to a corporation liable to make a payment under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. R.S.O. 1960, c. 73, s. 92 (4, 5).

96.—(1) Upon default of payment by a corporation of any tax, interest or penalty or any of them imposed upon a corporation by this Act,

Recovery
of tax,
interest and
penalties

- (a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury;
- (b) the Minister may issue a warrant, directed to the sheriff of any county or district in which any property of the corporation is located or situate, for the amount of the tax, interest and penalty or any of them owing by the corporation, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. R.S.O. 1960, c. 73, s. 93 (1); 1968, c. 20, s. 50 (1, 2).

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Part as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Part shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proven in any court of law by affidavit of the Minister or of any officer of the Department of Revenue. R.S.O. 1960, c. 73, s. 93 (2); 1968, c. 20, s. 50 (3).

Compliance
of Minister
to be
proved by
affidavit

97. The use of any of the remedies provided by sections 95 and 96 does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery or enforcement of the payment of any tax, interest and penalty or any of them imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. R.S.O. 1960, c. 73, s. 94.

Remedies
for
recovery
of tax
and
penalty

98.—(1) Where a corporation has failed to pay taxes, interest and penalties or any of them imposed by this Act for a period of more than three years from the date of mailing of the notice of assessment provided by subsection 2 of section 78, no person shall sell any capital assets of the corporation unless he has given written notice by registered letter to the Minister not less than ten days before the date of the sale. R.S.O. 1960, c. 73, s. 95 (1); 1968, c. 20, s. 51.

Notice to
be given
Minister
of sale of
company's
capital
assets

Penalty

(2) Every person who contravenes the provisions of subsection 1 is liable to a penalty of not less than an amount equal to the amount of such taxes, interest and penalties in default and such penalty is recoverable by action in any court in which a debt or money demand of a similar amount may be collected. R.S.O. 1960, c. 73, s. 95 (2).

Compromising disputes as to liability for taxes

99. If any doubt or dispute arises as to the liability of a corporation to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as he deems proper. R.S.O. 1960, c. 73, s. 96; 1968, c. 20, s. 52.

General offence

100. Every person who, and every corporation that, contravenes or fails to comply with any of the provisions of this Act or the regulations for which no other fine is provided is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. R.S.O. 1960, c. 73, s. 97.

Fines payable to Minister

101. The fines imposed for offences under this Act are payable to the Minister. R.S.O. 1960, c. 73, s. 98; 1968, c. 20, s. 53.

Regulations

102.—(1) The Lieutenant Governor in Council may make regulations,

- (a) authorizing or requiring the Deputy Minister of Revenue or any officer of the Department of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (b) providing for the issuance of certificates as to the amount of taxes, interest and penalties or any of them owing by any corporation under this Act and prescribing the fee payable therefor;
- (c) prescribing anything that by this Act is to be prescribed or is to be determined or regulated by the regulations;
- (d) prescribing amendments to the provisions of Part III and to the provisions of Part II that relate to the allocation of taxable income and taxable paid-up capital between Ontario and any other jurisdiction, such amendments to remain effective only if enacted by the Legislature at the first regular session after such amendments have been prescribed;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;
- (f) prescribing rates of interest for the purposes of Part V. R.S.O. 1960, c. 73, s. 99; 1968, c. 20, s. 54; 1968-69, c. 18, s. 12.

Idem

(2) A regulation is, if it so provides, effective with reference to a period before it was filed. 1968-69, c. 19, s. 22.

PART VII

TRANSITIONAL PROVISIONS

103. Notwithstanding any provision of this Act and in order that corporations that become taxable under this Act may be dealt with under this Act on the same basis and in the same manner as they will be dealt with under the *Income Tax Act* (Canada) with respect to fiscal years of such corporations ending in 1957 and later fiscal years, the provisions of the *Income Tax Act* (Canada) and every predecessor thereof affecting the determination of taxable income as they have been in force from time to time shall be deemed, for the purposes of this Act, to have been applied in determining the taxable incomes of such corporations for fiscal years thereof ending in calendar years before 1957, at the same time and to the same extent as they were applicable under those Acts. R.S.O. 1960, c. 73, s. 101.

Effect of
R.S.C. 1952,
c. 148 on
this Act

